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# Accountability for National Defence

## Ministerial Responsibility, Military Command and Parliamentary Oversight

Philippe Lagassé

While the existing regime to provide accountability for national defence works reasonably well, modest reforms that reinforce the convention of ministerial responsibility can improve parliamentary oversight and civilian control of the military.

Le processus actuel de reddition de comptes en matière de défense nationale remplit son rôle ; toutefois, des réformes mineures renforçant la responsabilité ministérielle permettraient de consolider la surveillance parlementaire et la direction civile des forces militaires.

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## Summary

Canadians' renewed focus on military matters reflects a desire to strengthen accountability for matters of national defence. Two issues are at stake: the role of Parliament in overseeing and shaping national defence policy, and the administrative and policy-making processes of the Department of National Defence. Critics have argued that the House of Commons should have the right to decide on the deployment of the Canadian Forces, and that parliamentary committees should play a larger role in shaping defence policy and reviewing the appointment of senior officers and defence officials. With the controversy over the treatment of Afghan detainees in late 2009, these issues returned to the forefront of Canadian politics. Debate about accountability for defence within the government was reignited by General Rick Hillier's recently published autobiography alleging that civilian officials had allowed "process and procedures" to complicate and undermine his transformation of the armed forces and the military's mission in Afghanistan. Many in the defence community hold that senior bureaucrats play an inappropriately large role in helping to keep the military accountable to the minister of national defence, cabinet and the prime minister.

In this study Philippe Lagassé assesses the state of accountability for matters of national defence in Canada, and evaluates calls to reform how the government is held to account for military and defence matters. In the first section he examines the national defence responsibilities of Canada's Parliament, as well as proposals to strengthen the powers of the House of Commons and parliamentary committees in defence matters. The author argues that while certain changes are needed to improve the ability of parliamentarians to hold the government to account for Canada's defence, reforms must respect the principles of responsible government. Reforms that dilute ministerial responsibility and the adversarial character of Parliament will weaken rather than strengthen defence accountability. Indeed, it could be argued that reinforcing ministerial responsibility and encouraging partisan competition could bolster Canadian defence accountability.

In the second section, Lagassé examines the lines of responsibility and accountability for defence within government. He shows that the part played by senior officials in formulating defence policy and in helping to keep the military accountable to the civilian authority is both necessary and in line with statute law. Drawing on the history of Canadian civil-military relations and contemporary civil-military relations theory, the study shows why the government's existing structure of defence administration is advantageous and effective. Although the administration of national defence in Canada is not perfect, it ensures that the prime minister and the minister of national defence are well informed about their defence policy choices, and that the policy preferences of the government are respected by the military and the defence bureaucracy, regardless of whether senior officers and officials agree with these preferences.

## Résumé

Depuis quelques années, les Canadiens portent une attention accrue aux questions militaires souhaitant, entre autres, que l'on renforce la reddition de comptes en matière de défense nationale. Cet enjeu peut être cerné en considérant, d'une part, le rôle que joue le Parlement dans l'élaboration des politiques de défense nationale et, d'autre part, les processus administratifs et de développement des politiques au sein du ministère de la Défense nationale.

Certains observateurs estiment que la Chambre des communes devrait avoir le droit de décider du déploiement des Forces armées et que les comités parlementaires devraient jouer un plus grand rôle dans l'élaboration des politiques de défense et dans le processus de nomination des officiers supérieurs et des hauts fonctionnaires de la Défense. La polémique récente concernant les prisonniers afghans a d'ailleurs ravivé l'intérêt pour ces questions. Le débat sur le devoir de rendre des comptes au gouvernement en matière de défense, de son côté, a été alimenté par la publication de l'autobiographie du général Rick Hillier. Celui-ci considère que les fonctionnaires civils ont, au moyen « de processus et de procédures », compliqué et entravé la transformation des Forces armées canadiennes qu'il voulait accomplir ainsi que la poursuite de la mission militaire en Afghanistan. En effet, nombreux sont ceux à l'intérieur du Ministère qui pensent que des hauts fonctionnaires jouent un rôle trop important en s'assurant que les militaires rendent des comptes au ministre de la Défense nationale, au cabinet et au premier ministre.

Dans cette étude, Philippe Lagassé analyse l'obligation de rendre compte en matière de défense nationale canadienne et évalue les propositions de réforme à ce sujet. La première partie se penche sur les responsabilités du Parlement canadien ainsi que sur les propositions visant à renforcer les pouvoirs de la Chambre des communes et des comités parlementaires. Dans son analyse, l'auteur note que, quoique certains changements soient nécessaires afin d'améliorer la capacité des parlementaires d'obliger le gouvernement à rendre des comptes, les réformes doivent respecter les principes de gouvernement responsable et de divergence partisane. Les réformes qui diluent la compétence des ministres ainsi que le caractère antagoniste du système parlementaire affaibliront plutôt que renforceront la reddition de comptes.

Dans la deuxième partie, l'auteur examine les lignes de responsabilité en matière de défense au sein du gouvernement. Il démontre que le rôle que jouent les hauts fonctionnaires dans l'élaboration des politiques de défense et dans l'obligation des militaires de répondre de l'exécution de leurs tâches devant les autorités civiles est nécessaire et conforme à la législation. S'appuyant sur l'histoire des relations civilo-militaires au Canada, ainsi que sur les théories contemporaines à ce sujet, l'auteur explique pourquoi les structures actuelles d'administration de la défense, quoiqu'imparfaites, sont avantageuses et efficaces. Elles garantissent que le premier ministre et le ministre de la Défense nationale sont bien informés de leurs choix de politiques de défense et que les préférences du cabinet en la matière sont respectées par les militaires et les fonctionnaires concernés, peu importe que ceux-ci les appuient ou non.

# Accountability for National Defence: Ministerial Responsibility, Military Command and Parliamentary Oversight

**Philippe Lagassé**

Canadians have grown increasingly interested in national defence matters in recent years. A result of the 2001 attacks against the United States and of Canadian Forces operations in Afghanistan, this renewed interest in military issues has been expressed in several ways. Public opinion polls indicate that Canadians have grown more appreciative of the military; according to one survey, the Canadian Forces are seen as the country's most respected public institution (Strategic Counsel 2007, 7). Events and paraphernalia showing support for members of the forces have proliferated. Media outlets have devoted far more attention to the military over the past eight years, particularly since the Canadian Forces were deployed on a strenuous counterinsurgency mission in 2005. Political leaders have also paid greater attention to the military. Prime Minister Paul Martin declared that he would rebuild the Canadian Forces, and his government inaugurated a substantial, multiyear increase in the defence budget.

Prime Minister Stephen Harper has vowed to further improve the state of the military. His Conservative government has outlined a long-term funding formula to recapitalize the armed forces. Members of Parliament have debated defence questions with greater rigour. Issues related to the mission in Afghanistan have been raised regularly during Question Period since 2001, MPs have twice debated and voted on extending the Canadian Forces' deployment in Kandahar, and the first report of the parliamentary budget officer, requested by MP Paul Dewar, addressed the costs of the Afghan mission. Since 2001 the Senate Standing Committee on National Security and Defence has issued a number of critical reports about Canada's defence capabilities. At the time of this writing, furthermore, opposition MPs were calling for the resignation of Harper's second minister of national defence, Peter MacKay, because of his handling of the controversy over the treatment of Afghan detainees, an issue that contributed to the removal of two previous ministers from the defence portfolio.

Accompanying this renewed focus on military matters has been a concern with Canadian defence accountability. Although accountability concerns have surrounded matters of national defence for several decades, this public and political interest in the military has amplified calls for a reform of how the armed forces are governed and managed. These calls for reform have centred on two broad issues: the role of the House of Commons and the Senate in overseeing and shaping national defence policy; and the administration and policy-making processes of the Department of National Defence. To borrow C.E.S. Franks' terminology, defence accountability has re-emerged as an issue in both the "public" parliamentary world and the "private" governmental world of Canadian politics (1987, 97).

Echoing the larger parliamentary reform movement, scholars, parliamentarians and pundits have long criticized the indirect role that the House of Commons plays in decisions about the

nation's armed forces (De Bané and Rompkey 1994; Commission of Inquiry into the Deployment of Canadian Forces in Somalia [CIDCFS] 1997, vol. 5, chap. 44; Kenny 1998; Rempel 2002; Bland and Rempel 2004; Dunn 2007; Granatstein 2009). They argue, for instance, that the House of Commons should have the right to decide on the deployment of the Canadian Forces (Dunn 2007; Granatstein 2009), and that parliamentary committees should play a larger role in shaping defence policy and reviewing the appointment of senior officers and defence officials (Rempel 2002, 209; Bland and Rempel 2004, 21-2, 31-3, 49-50). At the very least, these reformers suggest, the ability of MPs to hold the government to account for its defence policies must be improved. To this end, they recommend that parliamentary defence committees be strengthened and adopt a more nonpartisan approach in their deliberations. As well, to ensure that MPs have the information they need to hold the government to account, members of the military have been encouraged to frankly express their views about the Canadian Forces and defence policy before committees (Bland 2008, 54-8).

Debate about accountability for defence within the government was reignited during General Rick Hillier's three years as Canada's chief of the defence staff (CDS). During his time as CDS, Hillier enjoyed a degree of influence over defence policy that no Canadian Forces leader has wielded in a generation (Lagassé and Sokolsky 2009). His central place in the policy process raised questions about what role the military should play in it. Hillier's critics believed that he intruded into a realm best reserved for politicians and civilian officials (Martin 2006; French 2007; McQuaig 2007, 70-6; Pardy 2008). But to many who support the former CDS, Hillier was merely restoring a leading role for the military in defence policy-making that civilian officials had usurped in the early years of the Trudeau government (Bland 1987, 1995, 1997, 2008).

Hillier himself made it clear that he was displeased with senior bureaucrats who had questioned his policy preferences and priorities. His recently published autobiography chronicles several instances when Hillier felt that civilian officials allowed "process and procedures" to complicate and undermine his transformation of the military and the armed forces' efforts in Afghanistan (Hillier 2009, 349, 353, 411-27). In his last speech as CDS, moreover, Hillier charged that senior civil servants had acted like "field marshal wannabes" during his tenure as the highest-ranking officer. He went on to note that "civilian control of the armed forces is not civil service control of the armed forces" (CTV Newsnet 2008). When he made these statements, Hillier echoed a view held by many in the defence community: that senior bureaucrats play an inappropriately large role in helping to keep the military accountable to the minister of national defence, cabinet and the prime minister. According to those who share this view, Canadian defence administration must be rethought. Senior bureaucrats should cease to be involved in helping to keep the military accountable to the minister and the prime minister. The responsibilities of civilian bureaucrats, they hold, should be restricted to the financial administration of the Department of National Defence (DND). Doing so would clarify the lines of accountability between the military and elected leaders and restore the Canadian Forces leadership's rightful place as the government's primary defence policy advisers.

The aim of this study is to assess the state of accountability for matters of national defence in Canada and to evaluate calls to reform how the government is held to account for military and

defence matters. Rather than looking at accountability within the military chain of command, however, I will focus on accountability for national defence at a political and managerial level. In the first section I examine the national defence responsibilities of Canada's Parliament, as well as proposals to strengthen the powers of the House of Commons and parliamentary committees in defence matters. I argue that, while certain changes are needed to improve the ability of MPs to hold the government to account for Canada's defence, reforms must respect the principles of responsible government. Reforms that dilute ministerial responsibility and the adversarial character of the House of Commons will weaken rather than strengthen defence accountability. Indeed, reinforcing ministerial responsibility and encouraging partisan competition could bolster Canadian defence accountability.

In the second section, I examine the lines of responsibility and accountability for defence within government, with a particular focus on the responsibilities and accountabilities of senior bureaucrats, military leaders, the defence minister and the prime minister. Contrary to claims made by critics, the part played by senior bureaucrats in formulating defence policy and in helping to keep the military accountable to the civilian authority is both necessary and in line with statute law. In addition, drawing on the history of Canadian civil-military relations and contemporary civil-military relations theory, the section demonstrates why the government's existing structure of defence administration is advantageous and effective. Although the administration of national defence in Canada is not perfect, it ensures that the prime minister and the minister of national defence are well informed about their defence policy choices, and that the policy preferences of the governing cabinet are respected by the military and the bureaucracy, whether senior officers or officials agree with these preferences or not.

Given Canada's participation in the war in Afghanistan, the lingering Afghan detainee controversy and the significant defence spending increases that governments have recently promised, accountability for matters of national defence is an issue that merits a rigorous debate. To that end, this study provides a counterweight to the numerous studies, reports and scholarly publications that have called for reforms of how defence is governed and how the government is held to account for national defence. The overarching recommendation of the study is that efforts to improve defence accountability should seek to strengthen existing principles and practices. In spite of their shortcomings, these principles and practices offer Canadians an effective means of holding the government to account for national defence and keeping the military and DND accountable to government leaders.

## Parliament and National Defence

Scholars and parliamentarians have lamented the House of Commons' limited interest in defence issues for several decades. They have also argued that the defence of Canada and the capabilities of the armed forces could be improved if MPs had a larger role in setting defence policy and budgets. Canada's national defence, they assert, has suffered because MPs and parliamentary committees contribute little to major defence decisions and lack the means and support to effectively oversee the government's defence policies (De Bané and Rompkey 1994; CIDCFS 1997, vol. 5, chap. 44; Kenny 1998; Rempel 2002; Bland and Rempel 2004). An underlying assumption of these criticisms is that empowering MPs and parliamentary committees and encouraging a

nonpartisan approach to military questions will improve Canadian defence accountability (Bland and Rempel 2004, 53-4). A second assumption is that certain principles of Canadian parliamentary government can be stretched in an effort to expand the House of Commons' input to national defence. Both these assumptions deserve close scrutiny.

While the idea of granting MPs and parliamentary committees a greater role in defence decision-making appears appealing at first glance, doing so would undermine the keystone of parliamentary accountability: ministerial responsibility.[1] Likewise, although there are good reasons to believe that defence decisions should be made in a nonpartisan manner, the less adversarial the House of Commons becomes, the more complicated it is to hold the government to account. These realities must be borne in mind when considering ways to strengthen accountability for national defence in Canada. They suggest, moreover, that if greater defence accountability is the objective sought, reforms should respect and build on the parliamentary conventions of ministerial responsibility and adversarial parties. Indeed, it is precisely when these conventions are weakened, as has occurred with the Conservative government's handling of the detainee question, that accountability is more difficult to enforce. Rather than weakening fundamental principles of responsible government because they are imperfectly respected, the argument here is that parliamentarians must work to ensure a greater adherence to these fundamental principles if accountability for matters of national defence is to be improved.

The following section critically assesses common proposals for reforming Parliament's responsibilities with respect to national defence. It begins with an overview of the legal foundations of how national defence is governed and identifies where responsibility for defence currently resides. Next, three popular reform ideas are analyzed and discussed with a view toward identifying those that are wise and those that are unwise.

## Defence, the Constitution and responsible government

In Canada, matters of war and peace and decisions related to the disposition of armed forces are executive prerogatives of the Crown,[2] the sovereign power that nearly always acts on the advice of those members of Parliament who form the governing cabinet.[3] These prerogative powers have been enshrined in the common law, codified in Canada's *Constitution Act*, and only partially constrained by statute law.[4] The Crown's prerogative powers for the "defence of the realm" and the use of armed force to preserve the public peace can be traced to the feudal responsibilities of English kings during the Middle Ages. These prerogatives were further reinforced by the rulings of common law courts during the reigns of Edward IV and Henry VIII (Clode 1869, chap. 1). Following the tumultuous reign of the Stuart kings, which culminated in the Glorious Revolution of 1688, the English Parliament gradually reduced the prerogative powers of the Crown, a process that continued into the twentieth century. Throughout these years, however, the Crown's prerogative powers over matters of war and peace and the disposition of military forces were left intact. When the Canadian constitution was written in 1867, the drafters codified this aspect of England's "historical constitution" (Allison 2007). Section 15 of the *Constitution Act* states, "The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen." With this provision, the drafters affirmed that the authority for maintaining and commanding military forces flows from the sovereign power, and that the defence and security of the new

dominion were at the discretion of those exercising the Crown's prerogatives. Since Confederation, this has meant, in both theory and practice, that the governing cabinet that exercises the Crown's prerogatives has had an independent authority to deploy Canada's armed forces and decide on the duration and scope of these operations, among other things.

Preserving the Crown's executive prerogative powers over these matters of national defence and public peace has several advantages. Above all, it solidifies the idea that national defence and the peace of the body politic are common goods, matters of state that should rise above particular interests and instead serve the general welfare (D.E. Smith 1995, 25-6; Loughlin 1999, 54-7; Hadfield 1999, 197). Indeed, in the Westminster tradition, there is "a conviction that the prerogative was created for the benefit of the people" (Loughlin 1999, 60; Payne 1999, 88, 92). By preserving the Crown's powers in this area, moreover, those exercising the prerogative are better placed than a popular assembly to weigh the requirements of defence and security against other national concerns and priorities. Whereas individual members of a popular assembly can promote a particular good while neglecting or downplaying the opportunity costs it necessarily entails, those charged with the executive responsibilities of government cannot do so with the same ease; those who are responsible for governing are compelled to calculate the consequences of providing one good instead of another (Bagehot 2001, 12). Preserving these executive prerogatives protects the government's ability to decide on the inevitable trade-offs that arise when trying to provide multiple, and at times contradictory, common goods.

Next, these executive prerogatives of the Crown allow Canada to speak with a single voice in international military forums (D.E. Smith 1995, 32). Because the executive does not need to accept the advice of the legislature when making most defence decisions, governments can act more resolutely. Likewise, the Crown's prerogative power allows Canada to pursue more consistent foreign and defence policies, since the legislature cannot force the government to abruptly terminate a military deployment, withdraw from a defence treaty or adopt a particular policy. In addition, when necessary, these prerogatives allow governments to make defence commitments that are unpopular but are in the national and public interest. Finally, these executive prerogatives allow the Crown to act swiftly when a deployment of the armed forces is required to defend Canada or preserve the public peace (Payne 1999, 92-4).

Parliament recognized the value of preserving a large degree of executive discretion when it passed statute laws pertaining to national defence. The *National Defence Act* is the most important of these statutes.[5] Section 3 of the Act specifies that, by the authority of the Crown, there shall be a Department of National Defence, and that the minister of national defence shall preside over it. Section 14 makes explicit that the Canadian Forces belong to the Crown, while section 12(1) outlines that the governor-in-council (the governor general acting on the advice of cabinet) has the discretionary authority to "make regulations for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces." Parliament is mentioned in the *National Defence Act*, but only in specific contexts. The Act addresses when Parliament should review its contents and how other acts of Parliament affect it. As well, the Act obliges the government to provide Parliament with essential information about national defence and the armed forces, including the reports of the judge advocate general and the Grievance Board. Most

importantly, section 32 of the Act mentions that Parliament should sit when the Canadian Forces are put on active service by the governor-in-council. However, the Act is silent about what Parliament should do in such cases. This silence should be interpreted to mean that parliamentarians must sit to debate, challenge and oversee the government's decisions during a potential or ongoing armed conflict, not to decide whether Canada will participate in the conflict.

A second statute law, the *Emergencies Act*, outlines the government's powers during national emergencies and crises.[6] This Act provides that, during exceptional circumstances, the governor-in-council is authorized "to take special temporary measures that may not be appropriate in normal times," including the requisitioning of private property and the deportation of persons from Canada. Given the sensitivity and danger of granting such exceptional powers, the Act further provides that the government must nonetheless respect the Charter of Rights and Freedoms during a crisis, that Parliament must sit to scrutinize the government during the emergency and that Parliament may end the state of emergency seven days after it has been declared by the governing cabinet. As well, the Act specifies that an emergency does not authorize the government to conscript citizens into the armed forces. Beyond these limitations, however, the Act is silent regarding how the military might be employed during an emergency. In the absence of such provisions, the Act defers to the Crown's executive prerogative to use the armed forces as it deems fit to preserve the public peace, defend the state and protect the body politic.

Having outlined the constitutional and legal foundations of the government's powers for deploying the armed forces and protecting the public peace, it is imperative to examine who is responsible for the exercise of these powers of the Crown and how these individuals are held to account for their exercise. To understand how the process of keeping the government to account functions, it is necessary to review the fundamental principles of responsible government, the keystone of Canada's constitutional monarchy and parliamentary democracy.

In accordance with the convention of ministerial responsibility and the provisions of the *National Defence Act*, the Crown's defence minister is individually responsible and accountable for the state of the armed forces and Canada's defence affairs. This convention is the bedrock of responsible government in the Westminster tradition (d'Ombrain 2008; Malloy and Millar 2007). It holds that those who have the authority and responsibility to exercise power on behalf of the Crown are accountable — here defined as having the duty to "inform and explain how and how well responsibilities and powers or authority have been exercised" and "accepting personal consequences or sanctions for problems that could have been avoided or were not corrected in a timely fashion" (Hurley 2006, 127-8) — to the House of Commons for the conduct of the affairs of government, including the activities of the Crown's civil servants, police forces and armed forces. More precisely, ministerial responsibility "assures that Parliament may focus responsibility for the conduct of government on those of its members who hold ministerial office and who in the ultimate must personally answer to Parliament and thence the electorate for their actions and the actions of their subordinates" (Privy Council Office 1993, 3).

For the principle to function in this way, however, the responsibilities of a minister cannot be shared. If responsibility for policy setting were shared between ministers and MPs, for instance,

it would be difficult to hold ministers to account, since those charged with holding ministers to account would be responsible for the policy as well, and thus also accountable for the policy. This applies to the national defence portfolio as much as to every other government department. Defence accountability is predicated on the defence minister having an unshared responsibility for matters of national defence. As the Privy Council Office noted when comparing the Westminster tradition with the American congressional system:

> *The control of power by its division (rather than by making those who use it constitutionally responsible and daily and directly accountable to the representative of the electorate) tends to weaken accountability for its use. The division of powers makes it difficult to focus responsibility or to hold individuals personally accountable. In any given area of major policy one finds a succession of players in the Administration as well as the Congress each of whom has a degree of responsibility and a share of power, but as a rule there is no one with ultimate responsibility for the exercise of all the power necessary to take action...A system of divided powers makes it virtually impossible to hold individuals personally accountable, except in the narrow sense of prosecuting personal misconduct. (Privy Council Office 1993, chap. VII)*

Confusion surrounds the scope and meaning of a minister's accountability to Parliament, however. It is often said that ministers are held accountable for misjudgment, poor policy or misadministration within their departments by being forced to resign. Indeed, the fact that most ministers whose policies, subordinates or departments are found wanting do not resign is upheld as proof that the principle of ministerial responsibility is fundamentally flawed (D.E. Smith 2006, 107).

Resignation, however, is not and should not be the primary means of holding ministers to account for their responsibilities. Accountability is typically secured through other, less categorical avenues. Above all, ministers are held accountable by being pressured and compelled to answer for the affairs of government before the House of Commons and parliamentary committees. In answering questions or addressing concerns about their portfolios, ministers disclose information to MPs. Such information can then be used to criticize the government or press for a change in policy. This "answerability component" of ministerial responsibility addresses "Parliament's need to know what went wrong and how to avoid its happening again" (D.E. Smith 2006, 108). Accountability can also involve calling on ministers to rectify or prevent unacceptable situations within a department or agency.

Although parliamentarians may call on a minister to remedy a problem, it is the minister who must act. In truth, only the minister can act, since only the minister is responsible and accountable. This reflects the reality that backbench MPs and senators have no authority over the internal affairs of the executive (Franks 1987, 20-34, 97-8). If there is a problem to resolve, the minister must address it. Should the minister refuse to act or deny that there is a problem when one is apparent, then calls for the minister's resignation are entirely appropriate. But such calls must be made with a high degree of selectivity and only in the most severe of cases. Otherwise, the other components of a minister's accountability to Parliament are overlooked, lingering problems are simply handed over to a new minister, or governments may adopt an overly defensive or hostile attitude toward the accountability process.

Ministerial responsibility is collective as well as individual. Members of the governing cabinet decide on policies as a group. Hence, in a manner of speaking, the policies of an individual

minister are the policies of the entire cabinet. Because of this collective decision-making, cabinet members must govern with solidarity. They must support and defend the policies and positions of their fellow ministers, regardless of their personal views or preferences. Moreover, ministers must respect the secrecy of cabinet deliberations. If the governing cabinet loses a vote of confidence in the House of Commons, moreover, the entire cabinet must resign or the prime minister must request a dissolution of Parliament. It is important to note, however, that votes of confidence cannot be used to force the resignation of a single minister. This constitutional convention allows for a more stable executive and prevents the House of Commons from using confidence votes to manipulate the governance of a particular portfolio. It thus follows that the House of Commons is unable to employ confidence votes to force the resignation of a minister of national defence unless MPs intend to make the government fall, too.

Owing to their position as the head of government, prime ministers have a unique accountability relationship with the House of Commons. Since they appoint all cabinet ministers, prime ministers are responsible for the performance of their ministers and all matters of government (Privy Council Office 1999, sec. II). Accordingly, prime ministers can be questioned about a national defence policy or decision. Prime ministers, furthermore, are considered to have a special responsibility for Canada's international affairs and national security, areas where the military plays prominent roles. This distinct responsibility allows them to make military commitments that serve Canada's foreign policy or national security aims. When prime ministers do so, or choose not to do so, they are accountable to the House of Commons for their decisions. Likewise, were Canada to suffer a significant national security failure, the prime minister would be held to account by the House of Commons and by Canadians during a general election.

The implications of the Crown's executive prerogatives for national defence and preserving the public peace, as outlined in the *National Defence Act* and *Emergencies Act*, and of the convention of ministerial responsibility are well established. Authority for the maintenance and deployment of armed forces and for employing the armed forces during national emergencies flows from the Crown to its ministers, not from the Parliament to the government (D.E. Smith 1995, 71-2). Similarly, the Canadian Forces obey the authority of ministers of the Crown; the military serves the Crown and is accountable to its representatives alone (D.E. Smith 1995, 86-109). Save for its ability to terminate a state of emergency after seven days, the House of Commons has no independent authority over Canada's armed forces, no power to independently declare war or peace and no direct role in setting defence policy. Indeed, as the Crown's prerogatives and the silence of statute law make clear, a vote in the House of Commons is not legally required to deploy the Canadian Forces or even declare war. Although consulting the House of Commons on these matters is considered an established norm by some (Nossal quoted in Dewing and McDonald 2006), it has been ignored on several occasions and has no basis in law. In accordance with Westminster practice, furthermore, only the government has the right to table legislation that involves the expenditure of money. Thus, the House of Commons cannot use legislation to alter the defence budget. When the claim is made that the defence of Canada is Parliament's duty (Bland 2000), therefore, one must recognize that it is the duty of the governing cabinet, rather than the duty of the larger House of Commons or the Senate.

All this is not meant to imply that Parliament is uninvolved in matters of national defence. Quite the contrary; Parliament performs a number of vital functions related to the military and the defence of Canada. First and foremost, the party or coalition that has the confidence of the House of Commons forms the responsible and accountable governing cabinet. This means that the House of Commons chooses which party or coalition leaders will be responsible for national security and defence, and which ministers will exercise the Crown's prerogative powers. Second, backbench MPs of the governing party can influence the defence decisions of the governing cabinet through the deliberations of their party caucus. Third, the House of Commons expresses confidence or nonconfidence in budgets that include funding to operate and maintain DND and the armed forces. Fourth, parliamentarians debate, vote on and can amend national defence legislation, such as the *National Defence Act*. Fifth, parliamentarians can debate defence questions and pass nonbinding motions regarding military issues in an effort to influence the government defence decisions. Sixth, as noted, parliamentarians can terminate a state of emergency seven days after it has been declared by the governor-in-council. Seventh, parliamentary defence committees oversee and report on the government's defence estimates, policies, programs and legislation. Eighth, opposition MPs, and members of the official opposition in particular, must oversee the defence decisions of the government and warn the public of any errors or shortfalls. In the Canadian tradition of Westminster government, opposition MPs are expected to find fault with the government's defence policies and programs and to propose alternative defence policies for citizens to consider (Franks 1987, 143-60).

In performing these functions, parliamentarians ensure that the government is held to account for matters of national defence. The efforts of parliamentary defence committees and opposition parties are especially important in this regard. Through their review of the government's defence estimates, policies, programs and legislation, committees are, in theory at least, well placed to raise questions or find fault with the government's handling of the defence portfolio. Committees, moreover, can debate defence policy positions and issue reports that outline defence options for both the public and the government to consider. At times, committee members will come together in a nonpartisan fashion to draw special attention to a problem facing the armed forces or the government's defence program. At other times, committee members will divide along party lines to provide competing views on Canada's defence policies and the government's performance. Both of these modes of conduct are important for defence accountability. When speaking with a single voice, the committee has greater legitimacy and moral weight, allowing members to put stronger pressure on the government to acknowledge their concerns. This approach is particularly suited to the Senate, where partisan battles are secondary to careful deliberation (D.E. Smith 2003). Thanks to their tendency to break down along party lines, on the other hand, Commons committees help ensure that there is a "marketplace of ideas" about defence. When embracing the adversarial nature of the Commons in this fashion, committee members represent the various views that Canadians hold about military affairs and refuse to accept that there is only one "correct" approach to national defence issues.

Opposition parties that are consistently adversarial are also vital for defence accountability (D.E. Smith 2007, 7-10; J. Smith 1999, 406-7). The principal role of opposition parties in the House of Commons is to oppose. They must regularly deny that the government is making the right poli-

cy choices. Their purpose in the Commons is to criticize the government and present themselves as the party better suited to govern (Franks 1987, 41, 144-60). By acting in this way, opposition parties ensure that differing policy perspectives are represented in the House of Commons and that voters hear viewpoints that differ from those presented by the governing party. In the words of Walter Bagehot, an assertive and adversarial opposition ensures that "the nation is forced to hear two sides — all the sides, perhaps, of that which most concerns it" (2001, 14). As well, by taking a stance against the government, opposition parties strengthen the principle that the governing party is responsible, and therefore singularly accountable, for the affairs of government.

When an opposition party votes with the government or supports the governing party's platform, it is not only expressing confidence in the government but also giving the impression that it supports, or at least does not oppose, the governing party's policy. When it comes time to hold the government to account for this policy, the opposition party will be poorly placed to do so. When the opposition party has endorsed the policy in question, its criticism will lack credibility and/or vigour. Of course, the opposition will still be able to criticize the implementation of the policy. But these attacks will lack an additional degree of strength they could have had if the opposition had refused to support the policy itself. Governments, furthermore, will not hesitate to point to the opposition's support of the overarching policy when answering questions or deflecting critiques. When the opposition votes with the government, its ability to hold the government to account will thus be weakened. This is not to suggest that opposition parties should never vote with or express confidence in the government. Opposition parties may want to support the government as a matter of principle. And during minority governments, the survival of the government may at times depend on the support of opposition parties. But every time an opposition party votes with the government, a measure of accountability is lost. For the House of Commons to exercise a strong degree of accountability over the government, voting against the governing party must be the default position of opposition parties, and the official opposition especially (Bagehot 2001, 14).

The role of opposition parties in keeping the government accountable for national defence is thus clear. They are expected to criticize the government's policies and decisions. They are expected to identify flaws with government policy and highlight different courses of action. What they are not expected to do is regularly endorse the government's defence policies or seek out a nonpartisan consensus about Canada's national defence. Opposition parties may choose to support the government or embrace nonpartisanship during a military crisis or when a demonstration of national unity is in order. But these cannot be routine actions on the part of opposition parties if maintaining a robust system of defence accountability is the objective sought.

In fact, given the executive's wide discretion in matters of national defence, a government's choice to submit defence decisions to parliamentary votes should be carefully scrutinized. Some defence-related votes will be demanded by the opposition parties. Others will be warranted given the seriousness of the situation at hand. But still others may take place because the government is attempting to divide its responsibility and accountability for national defence with the House of Commons, or at least to give the impression that the government's responsibility is shared with the opposition parties. In such cases, defence accounta-

bility is diluted, since responsibility is no longer focused on the defence minister and the governing cabinet. For instance, rather than taking responsibility for major defence decisions and being held accountable for them, the government may argue that it is following the will of the House of Commons, as the current Conservative government has done regarding the planned withdrawal of the Canadian Forces from Kandahar, Afghanistan, in 2011. Instead of having to explain why it believes that the deployment should end in 2011, or describe what future roles the armed forces might play in Afghanistan, the Conservative government has been able to declare that it will respect the resolution passed by the Commons. While the government's deference to the House of Commons may appear commendable, it has helped the Conservatives to dodge important questions about the mission's underlying logic and value (Bland 2010).

In sum, defence accountability in Canada's parliamentary system of government is ensured by adhering to the principles of responsible government and adversarial partisanship. Ministerial responsibility concentrates accountability on the defence minister and governing cabinet, those who are granted the authority to act in statute law and who exercise the Crown's prerogative powers for national defence. The partisan adversarial system evolved to guarantee that the government is vigorously held to account by the opposition. It also ensures that various defence positions are represented and debated in Parliament. Indeed, rather than argue for the vague notion of a more "vigilant Parliament" to hold the government to account, as did the report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia (1997, chap. 44), it would be of greater use to stress the need for a more vigilant opposition.

According to notable Canadian commentators and scholars, however, Canada's system of defence accountability is unacceptably weak and undemocratic. Notable critics, such as the celebrated historian J.L. Granatstein, argue that preserving the Crown's prerogative power over national defence robs Canadians of the right to decide on matters of war and peace. Parliament, these critics argue, should hold binding votes on the deployment of the armed forces. As Granatstein argued in September 2009, "Representing the people of Canada, Parliament must decide before our soldiers go abroad to fight or even to keep the peace." According to former Reform Party leader Preston Manning, moreover, these votes should be free, allowing parliamentarians to vote in accordance with their own views or those of their constituents (Rempel 2002, 79). As a past Reform Party foreign and defence policy adviser, Roy Rempel, recalled regarding the decision to commit the Canadian Forces to a presence in Kosovo, "Manning was firmly convinced that Parliament's role in this issue, as in all others, had to be more substantial. He strongly believed that Parliament should set the parameters of Canada's involvement. That could be done only through a free vote in the House" (2002, 79). In addition, critics note that parliamentary committees lack the necessary tools and procedures to hold the government to account. Canadian defence would also benefit, critics claim, if Commons committees reduced their partisanship and played a larger role in shaping policy. Lastly, certain critics have argued that the military's relationship with Parliament must be rethought to enhance the ability of MPs and senators to oversee the defence portfolio and hold the government to account (Bland and Rempel 2004, 47-51). Each of these arguments deserves a careful examination.

### Deployment votes

Canadian governments have been inconsistent in holding votes in the House of Commons before deploying the Canadian military. Prime Minister William Lyon Mackenzie King famously declared that Parliament would decide if Canada went to war. When the Second World War broke out in Europe, King kept his word. A vote was held in the House of Commons before the King government issued an order-in-council that declared war against Nazi Germany on September 10, 1939. By consulting the House of Commons before exercising this Crown prerogative, the King government appeared to have set an important precedent: future governments would be expected to secure the approval of the House of Commons before declaring war (Rossignal 1992). Yet King's successor, Louis St-Laurent, denied that his government needed to obtain the House of Commons' consent before deploying the Canadian military to Korea in 1950. In defending his actions, St-Laurent reminded the House of Commons that matters of war and peace are a prerogative of the Crown (Rossignal 1992). Future Canadian governments would vacillate between the two approaches. On some occasions, governments have asked the House of Commons to express its support for a military deployment through a formal vote. On other occasions, governments have held only take-note debates, during which no vote is taken. In many cases, these take-note debates have taken place long after the armed forces were deployed. Hence, while it may be true that Canadians expect their MPs to have a say in deploying the military, the historical record suggests that this norm has been fairly weak.

Current trends, however, appear to be pushing Canada toward more regular binding deployment votes. Several factors are driving this trend, including greater public concern for the military and a multiparty commitment to fix Canada's "democratic deficit." Indeed, since the early 1990s, a number of private member's bills have been tabled to establish a system for consulting the House of Commons before international deployments (Dewing and McDonald 2006). Great Britain, moreover, is currently attempting to find an acceptable means of requiring a vote in the House of Commons before initiating military deployments, which suggests that the inclination to override the Crown's remaining executive prerogatives by statute is part of a larger movement to reform Westminster governments (Taylor and Kelly 2008). If such trends continue, customs and convention could dictate that the Crown's prerogative over deployments will be ceded to or strictly delimited by the House of Commons. Before this is allowed to occur, the consequences of such a reforms should be carefully evaluated.

Requiring governments to secure a successful vote in the House of Commons before deploying the military is an appealing reform. Its virtues are many and widely recognized. Holding a binding vote before deployments would bolster representative democracy. The decision to send the armed forces on an operation would no longer be at the discretion of the governing cabinet alone, but would instead be a choice made by the people's elected representatives. It would allow MPs to have a say on an issue of marked national significance and would allow the House of Commons to play a far larger role in making foreign and defence policy decisions for Canada. In theory, this would mean that the views of Canadians would be better reflected in the decision to send the Canadian Forces overseas (Dunn 2007). If such votes were free, moreover, the public's input into deployment decisions might increase, as MPs would be expected to vote according to the preferences of their constituents. Popular opin-

ion, not party lines, would determine whether the military was sent abroad and in what capacity. A nonpartisan, responsive approach to international military crises and deployments would potentially take root.

Instituting this reform, however, could come at a cost. If the prerogative for military deployments were transferred from the Crown to the House of Commons, a significant degree of accountability would be lost. Specifically, if the House of Commons decided on military deployments, the defence minister and cabinet would no longer be wholly responsible for this choice; the responsibility for military deployments would be divided between the Commons and the governing cabinet. When time came to hold the government to account for the missions, it would be unclear who is responsible. While the defence minister would remain accountable to the House of Commons for the conduct of operations, the government could claim that it is not fully responsible for the mission itself, since the decision was made in conjunction with the Commons.

Admittedly, this problem would be less likely to arise under a majority government, if the vote broke down along party lines. A majority government could still be held singularly responsible if opposition parties voted against a deployment, since the deployment would be the decision of the single governing party. However, if the deployment votes were free votes, as Manning proposed, the government's responsibility and accountability would be diminished. If a free vote were held and MPs represented the views of their constituents, the decision to deploy the armed forces would not necessarily be associated with any party. Instead, those MPs who voted in favour of the deployment would appear to be responsible. Unfortunately, mechanisms to hold individual MPs to account between elections are essentially nonexistent in the Westminster tradition. Thus, responsibility for the decision would be unfocused, while the government's accountability for the mission would remain at the level of implementation alone. As in congressional systems, responsibility for the mission itself, for the choice to employ the armed forces or not, could not be clearly attributed to the defence minister, the prime minister and the governing cabinet.

This accountability dilemma, moreover, would be acute in minority Parliaments. In a minority Parliament, whether the votes were free or partisan, a positive vote would necessarily involve the support of opposition MPs. In turn, this would divide responsibility between the governing party and the House of Commons. Were the official opposition to vote with the government, furthermore, those MPs who were expected to keep the governing cabinet to account would not be well placed to perform their duty. The task of criticizing the government for the deployment and finding fault with the decision would fall to smaller opposition parties, which are not ideally positioned to hold the governing party to account.

Binding deployment votes would dilute Canadian defence accountability in other ways. When deployments are executed through an exercise of the Crown prerogative alone, opposition parties are free to find fault with the decision, regardless of whether they privately support the deployment or not. Put another way, opposition parties are encouraged to criticize cabinet's decision, even if they would have made a similar choice had they been in power. When deployment votes are held, however, opposition parties that privately support the proposed mission

may feel compelled to vote with the government, particular under minority governments, when the motion could be defeated. Having voted in favour of the mission, they may be less inclined to criticize the government's handling of the deployment thereafter. In such cases, Canadians are left without a strong, determined opposition.

The House of Commons' 2008 vote to extend the Canadian Forces' deployment in Kandahar, Afghanistan, to 2011 reinforces these concerns. As 2007 came to a close, an increasing number of Canadians believed that the mission should end sooner rather than later (Fletcher, Bastedo, and Hove 2009). This view was shared by the three federal opposition parties: the Liberals, the New Democratic Party and the Bloc Québécois. The governing Conservative Party, however, was determined to extend the deployment in Kandahar. Technically, the Conservatives could have extended the mission without securing a vote in the House of Commons. Yet the Conservatives had long supported the idea that military deployments should be sanctioned by the Commons. As well, it is likely that the Conservatives understood that a positive vote in the House of Commons would add legitimacy to a decision to extend an increasingly unpopular mission. To guarantee that the vote would pass, the Conservatives realized that the Liberal Party would need to vote with them; both the NDP and the Bloc adamantly opposed an extension. The process of pushing the Liberals to support an extension of the mission began with the establishment of an independent panel mandated to study the value of continuing the deployment. Chaired by former Liberal cabinet minister John Manley, the panel published its report in early 2008. The report recommended an extension of the mission, as long as Canada's allies provided more troops and the Canadian Forces acquired medium-lift helicopters. Because the panel operated independently of the government and was chaired by one of their own, the Liberals, it appeared, felt obliged to accept most of its recommendations. As the vote in the House of Commons approached, the Liberals demanded that the government accept an end date of 2011 for the mission. The Conservatives agreed and the Liberals voted in favour of the extension.

During the year that followed the vote, Liberal criticism of the Afghan mission diminished. Given their support of the extension, the Liberals could not effectively question the government about the mission in or out of the Commons. Nor did the Liberals choose to criticize the operational aspects of the mission, which was still an option open to them. The task of holding the government to account for the mission fell to the NDP and the Bloc. Owing to the House of Commons vote, however, the NDP and Bloc critiques had little impact. With the two largest national parties in general agreement about the deployment, the issue fell from the top of the national agenda. Indeed, although nearly 50 percent of Canadians had misgivings about the mission (CTV News 2008), the Afghan deployment was a marginal issue during the 2008 federal election. Arguably, the Commons vote left the Liberals with no ability to credibly question the mission. The Conservatives, on the other hand, benefited from the vote. It gave the appearance that responsibility for the extension was shared with the Liberals, and it reduced criticism of the deployment in the Commons and during the federal election.

Had the Conservatives simply exercised the Crown's prerogative to extend the mission, it is unlikely that the Liberals would have chosen to weaken their criticisms of the government regarding Afghanistan; the Liberals could have kept questioning all aspects of the increasingly unpopular

deployment. Defence accountability and the concerns of an increasing number of Canadians would have been better served by this outcome.

Binding deployment votes would involve other disadvantages beyond diluting defence accountability in minority parliaments, and in majority parliaments if they were free votes. Such votes could force governments to renege on international treaty obligations, such as article 5 of the North Atlantic Treaty, which obligates members to defend allies who are under attack. It is not inconceivable that the House of Commons could vote against a deployment that is meant to fulfill this duty. Were this to occur, Canada's standing in the alliance would be jeopardized. Equally problematic, allowing the House of Commons to control Canada's international military deployments could lead to situations where the military is withdrawn from a theatre of operations at a date earlier than indicated to allies. If this occurred regularly, Canada's reputation as a stable, reliable military ally could suffer. Finally, ceding control of international military deployments to the House of Commons could increase the influence of short-term political considerations on Canadian Forces operations. While short-term considerations already impact on how the military is deployed, ceding this Crown prerogative to the Commons could augment their impact, perhaps leading to a decreased concern with longer-term interests.

Given these possible adverse consequences of holding binding deployment votes, and of free and binding votes in particular, more modest reforms should be pursued. An uncomplicated reform that would preserve the benefits of the Crown prerogative and respect the underpinnings of responsible government while improving defence accountability would be to make partisan take-note debates in both the Commons and the Senate mandatory before any military deployment. When time and circumstances permit, these debates could be preceded by a presentation of the deployment's scope, aims, and expected costs and duration by the defence minister or the prime minister. Holding these debates prior to a deployment would allow parliamentarians to air their views and concerns about the proposed mission before the government and the public. Keeping the debates in the Commons partisan would guarantee that different perspectives are represented and debated. Avoiding a vote would allow the opposition parties to concentrate their efforts on finding fault with the government's plans and highlighting alternative courses of action.

Preserving this Crown prerogative, moreover, would focus responsibility for deployments squarely on the government, those who hold the confidence of the people's representatives. There would be no question that responsibility for the mission is the governing cabinet's alone, and the government would not be able to claim that the House of Commons is equally accountable for deployments because a vote was held. Because they did not vote on the deployment, furthermore, opposition parties would be in a strong position to hold the government to account for the deployment and any errors or misjudgments that occur during the mission. Hence, while such take-note debates may seem less representatively democratic than free and binding votes, they would reinforce defence accountability and the principles of Canada's participatory, party-centred democracy (D.E. Smith 1999, 95-119). As well, holding only take-note debates would circumvent the problems of alliance commitments and Canadian reliability that could arise if the House of Commons controlled military deployments.

A final point must be made regarding free and binding deployment votes: were such votes held, they would likely be confidence votes. The decision to use armed force is of great import and consequence. Canadian lives are put at risk when the military is sent on missions, military operations are costly undertakings, and foreign perceptions of Canada can be affected, whether positively or negatively, by Ottawa's decision to take part in or abstain from a major international military campaign. Given the significance of such deployments, it would be logical to consider sending the armed forces on operations should count as a matter of confidence. This means, however, that if a ministry lost a confidence vote pertaining to the deployment of the military, Canada would be without a legitimate governing cabinet during potential international crises and wars. This reality alone should caution against the adoption of free and binding votes.

### Strengthening committees

Of all the reforms put forward to improve defence accountability, calls to strengthen parliamentary committees are the most appealing and common (De Bané and Rompkey 1994; Kenny 1998; Rempel 2002, 198; Bland and Rempel 2004, 47-51). The nature and extent of this strengthening, however, remain sources of contention. Moderate approaches to committee reform aim to better their performance without altering their basic powers and procedures. More ambitious approaches seek to expand the role and power of committees as well as diminish their partisan practices and tendencies. While both have merits, moderate approaches that respect the fundamental principles of responsible government and adversarial partisanship would improve defence accountability, whereas more ambitious approaches that abandon these principles would weaken it. Accordingly, committee reforms should pursue a moderate approach.

Committees require information to hold governments to account. When committees have difficulty accessing or interpreting information, their ability to keep governments accountable is undermined, as the 2009 Afghan detainee hearings demonstrated. Likewise, committees need a sufficient amount of information to make effective proposals or to offer valuable policy advice. Simply put, information is vital in order for committees to work as intended. Unfortunately, the Department of National Defence tends to be overly guarded when providing some key sources of information to parliamentary defence committees. Departmental reports on defence estimates are believed to be especially problematic (Bland and Rempel 2004, 25-6). Although DND provides timely information regarding its estimates, the numbers are opaque and difficult to decipher. Most MPs do not have the time or the training to wade through the figures and arrive at a firm sense of where and how DND is spending its budget (Bland and Rempel 2004, 25-6). A first step toward strengthening committees, then, would be to require the department to provide more detailed and digestible reports on defence estimates. If provided with this information, parliamentary defence committees would be better placed to comment on defence spending requirements and budgetary priorities. It might also allow committees to identify spending inefficiencies, shortfalls and excesses, an outcome that would enhance Canadian defence accountability.

Secrecy concerns limit the information that DND is willing to share with parliamentary committees as well. A number of defence matters must be kept secret for the sake of national security and personal privacy and to protect the interests of Canada's allies and partners. Because their members do not have security clearances, committees are unable to oversee these classi-

fied files and defence officials are forbidden from discussing them before them (Bland and Rempel 2004, 52). Owing to these security restrictions, important defence issues are overlooked by parliamentary committees, a reality that undermines defence accountability. In 2009, for example, the Conservative government argued that it could not release documents related to the transfer of Afghan detainees because of national security and privacy concerns. While this argument may or may not be valid, its consequence is that opposition parties have faced significant obstacles in trying to hold the government to account for this matter.

To remedy this situation, it would be worthwhile to grant security clearances to MPs and senators who sit on defence committees. Doing so would allow defence officials to disclose secret information to the committees in camera and expand the areas that members oversee and debate. Of course, the Canadian government may be reticent to share secret information with backbench MPs and senators. It is possible that granting these clearances could lead to more leaks and breaches. As well, controversy could arise if certain MPs or senators were denied clearance, particularly if they tended to belong to parties representing certain regions or those that subscribe to particular ideological persuasions. However, other democracies, such as the United States, extend security clearances to their elected representatives without experiencing a high degree of security violations. If the practice is carefully implemented and supervised, Canada would be able to avoid significant security problems, too. Notably, when granted these clearances, opposition MPs would need to accept and fully respect stringent limits on how secret information is used to either criticize the government or propose policy alternatives.

A factor that complicates the extension of security clearances to Commons committee members, although not to Senate committee members, is the short time MPs tend to spend on defence committees. Many MPs fail to sit on the same committee for the duration of an entire parliament (Bland and Rempel 2004, 36-7). This turnover could complicate efforts to grant members clearances. It might also discourage DND from agreeing to disclose secret information. Maintaining this turnover rate is problematic for other reasons as well. As with any specialized topic, it takes time to learn about and familiarize oneself with the details of national defence policy and the technicalities of military affairs. Without this understanding, it is difficult to identify problems facing the military or to propose credible defence policy alternatives. Unfortunately, the limited time many members spend on defence committees, let alone as parliamentarians,[7] prevents them from acquiring this knowledge. As a result, committees lack members who have the experience and learning to understand the dynamics that surround the armed forces and the national defence portfolio. A possible solution to the difficulties caused by the membership turnover on defence committees would be to mandate that, barring certain circumstances, MPs sit on these committees for the entirety of a parliament. This would restrain the number of MPs who are granted security clearances and allow committee members to deepen their understanding of military affairs.

Questions have also been raised about whether defence committees have sufficient staff (Bland and Rempel 2004, 26). Even if they possess the knowledge required to analyze defence and military matters, committee members lack the time to do so effectively. Parliamentary committees have staff assigned to assist members with their duties, but there are too few of them. The same

is true of defence researchers working for the Library of Parliament. While there are dedicated researchers within the library who conduct independent studies of defence issues for parliamentarians, they are few and defence is only one issue of many they address. All this means that committees conduct their business with minimal staff support, which impedes the effectiveness of their work.

Opposition MPs are particularly handicapped by the lack of dedicated staff. Whereas members of the governing party benefit from the professional advice of DND, opposition MPs must make do with the limited resources at their committee's disposal. Since it is opposition MPs who are duty-bound to question the government's policies and priorities, this lack of dedicated staff contributes to a weakening of defence accountability.

Increasing the number of staffers working for defence committees could help rectify this situation, as would expanding the Library of Parliament's research on defence policy (Bland and Rempel 2004, 47). This reform, however, could create problems for Commons committees. There is a risk that a larger staff could acquire an undue influence over a committee's agenda, particularly if MPs grew dependent on the advice of staffers when formulating questions or calling witnesses. If this occurred, staffers could supplant members as the central actors on committees (Franks 1987, 185). Given the high rate of turnover on parliamentary committees and the short political careers of many MPs, this is a distinct possibility in a Canadian context. Relying on the advice of a large dedicated staff might also lead members to hold a narrower range of views about defence, which would undermine a committee's ability to hear, debate and represent various perspectives.

It has also been suggested that military personnel should be assigned to parliamentary defence committees to strengthen members' understanding of technical matters (Bland and Rempel 2004, 52-3). This would be more problematic still. Parliamentary committees are meant to oversee the government, which includes both the governing party and servants of the Crown over whom ministers are responsible. Having servants of the Crown advising committees in their efforts to oversee the government, therefore, creates a conflict of interest; military personnel assigned to committees would be advising MPs on how they should oversee the military. However much committee members might benefit from having their own sources of military advice, this conflict of interest should highlight the impracticality and constitutional difficulties associated with this idea.

A better way of increasing the expertise of members without encountering the risks associated with large, dedicated committee staffs would be to build defence expertise within political parties. Having political parties expand their defence expertise would be beneficial on several levels. Above all, it would avoid having committees become beholden to independent staffers who favoured particular views about defence and military affairs. If members could turn to defence experts within their own party, it would help to ensure that different, but still informed, perspectives were well represented on committees. In turn, this could lead to stronger debates on defence matters. Indeed, building defence expertise within parties would belie the notion that there is only one "correct" view on national defence that all committee members should embrace. In addition, developing defence expertise within parties would help alleviate the prob-

lems associated with the high rate of turnover on committees. New members could rely on a cadre of dedicated defence experts within their parties to familiarize them with defence issues when they are appointed to defence committees. This could reduce the time required to bring new members up to speed on defence issues when they are appointed, and guarantee that each party's concerns and perspective remain consistent during membership rotations. Lastly, building defence expertise within parties could improve the ability of opposition MPs to hold the government to account. If assisted by a number of partisan defence experts, opposition MPs would be in a stronger position when critiquing ministers and debating with government MPs.[8]

Another source of discontent among reformers is the overt partisanship of many committee members. Reform advocates believe that parliamentary committees must be far less partisan (Bland and Rempel 2004, 47). Committees, they hold, should exist to provide nonpartisan defence advice to government and to hold the governing cabinet to account in a nonpartisan fashion. As they correctly point out, committee reports and findings are more powerful when they espouse an all-party consensus (Bland and Rempel 2004, 52-4; Franks 1987, 185). Committees that are nonpartisan, it therefore follows, will be more effective in influencing the government and highlighting problems plaguing the armed forces and Canadian defence policy. The Senate Standing Committee on National Security and Defence (SCONSAD) is a case in point. Before tensions in the Senate mounted under the Conservative government of Stephen Harper, SCONSAD produced several influential, nonpartisan reports on the state of the armed forces. SCONSAD's reports were widely covered by the media and arguably helped pressure successive governments to reinvest in the military. Were the committees of the House of Commons to operate in a similar fashion, their ability to shape defence decisions and communicate their concerns to the government and the general public might be as great.

Yet, as has already been mentioned, the partisan character of committees serves important functions as well. Partisan committees encourage debate and resist the notion that there are clear sets of "right" and "wrong" views on defence. They assist with the creation of a healthy marketplace of ideas about defence and military affairs. They are more likely to follow various lines of inquiry and call witnesses of different ideological perspectives. This latter point is especially important when the government, the defence lobby or the peace movement attempts to control how a defence issue is being framed in the public discourse. By imposing confrontation and disagreement, partisanship helps prevent committees from succumbing to groupthink or the suasion of interest groups.

In judging the value of partisan committees, the consequences of SCONSAD's nonpartisan approach are telling. While the Senate defence committee's past reports were influential, they were decidedly one-sided. These reports left no room for debate; they gave the impression that there is a "correct" and an "incorrect" way to think about defence, and that the views of those who disagree with the committee members do not deserve an airing. Moreover, SCONSAD's reports regularly echoed the demands of defence interest groups. Although millions of Canadians are sympathetic to the ideas of the peace movement, as the skepticism of a notable portion of the public toward ballistic missile defence in 2004-05 highlighted, their concerns were rarely, if ever, considered by the defence committee of the upper house. Considering the

House of Commons' more democratic form of representation, it is worth asking if a similar outcome would be desirable, or even acceptable, in the defence committee of the lower house.

Finally, the most ambitious proposals for reform involve giving committees a role in setting defence policy and expenditures, reviewing military appointments and vetting the government's defence policy documents (De Bané and Rompkey 1994; CIDCFS 1997, vol. 5, chap. 44). Proponents of these reforms have a noble objective in mind: they seek to democratize Canadian defence policy-making and the naming of senior military leaders. Indeed, in putting forth this recommendation, reform advocates note that other liberal democracies have been far more willing to involve legislative committees in the formulation of defence policies and the appointment of military leaders. By not following suit, they imply, Canada is perpetuating a democratic deficit that is unbecoming of an advanced liberal democracy (CIDCFS 1997, vol. 5, 1454-6). Supporters of this reform, furthermore, believe that the quality of Canada's defence policies and military appointments would improve if parliamentary defence committees held a direct influence over them. Acting on behalf of the people they represent, committee members would insist on maintaining the defence capabilities and promoting the military leaders that Canadians deserve. With defence committees demanding better policies and appointments, it is hoped, governments would no longer be able to shortchange the armed forces or select military leaders who sit quietly while their advice is ignored by the defence minister or cabinet.

Despite these noble intentions, however, giving parliamentary defence committees a meaningful role in setting defence policies and budgets and in reviewing the appointment of senior military leaders would undermine responsible government and, as should be evident by this point, defence accountability. If a parliamentary committee were given these powers, the defence minister would need to secure the committee's consent or support when setting defence policy or determining defence expenditures. Were the defence minister and the committee to disagree about policy or budgetary allocation, they might have to negotiate until they arrived at a mutually acceptable solution. Similarly, were this reform taken to its logical conclusion, the prime minister would need to secure the committee's approval in order to make a military appointment. Thus, for this reform to have any import, the committee would have to share in the defence minister's responsibility for matters of national defence and in the prime minister's responsibility for appointments. For, if the committee did not share these responsibilities, the defence minister and the prime minister would be held solely accountable for decisions that were not entirely their own. It is thus unlikely that any defence minister or prime minister would allow this reform to be implemented. Moreover, if its shared responsibility were not acknowledged, the committee could alter Canada's defence policies and budgets and influence military appointments without having to answer for its actions. This would also lead to an impermissible erosion of defence accountability. Hence, if a parliamentary defence committee were granted these powers, its shared responsibility and accountability for matters of national defence and military appointments would need to be acknowledged and enforced.

While it may be possible to recognize the committee's responsibility, however, there are few mechanisms in the Westminster system for holding committees accountable. No parliamentarians are assigned the task of overseeing committees or holding them to account, since ministers,

not MPs, are supposed to be responsible for the affairs of government. In theory, a committee could be established to oversee the work of an empowered defence committee, but such a body would probably encounter a host of problems. MPs, for instance, could attempt to hold members from other parties to account while protecting members from their own party. Alternatively, in cases where the defence minister and the committee disagree, the government could attempt to hold members to account for their lack of cooperation or action. But the government would have no ability to sanction committee members; confidence, after all, is expressed in governments rather than in MPs. Admittedly, voters could hold committee members to account by not re-electing them. Yet this would be an imperfect means of holding members to account, since it would require a fundamental change in the Canadian tendency of voting for parties instead of individuals. As well, elections are a blunt accountability instrument. Defeating an MP for a responsibility that is divided between a committee with several members, a minister and the governing cabinet would be a harsh indictment, one that voters would likely level with a fair degree of inconsistency. Unless an effective means of holding the members to account were devised, therefore, defence accountability would suffer if the responsibilities of the defence minister and the governing cabinet were shared with a parliamentary committee.

Beyond these accountability challenges, granting parliamentary defence committees responsibilities for matters of national defence could create additional problems. Unlike the governing cabinet, committees are not required to weigh the relative costs and benefits of different initiatives and programs when considering how much to spend on defence. Because they focus on a single portfolio, defence committees can have the luxury of examining defence requirements and expenditures in isolation (Franks 1987, 174). Committee members are not forced to choose between spending more on the armed forces or paying down the federal debt, for instance. They are free to advise the government on how much should ideally be spent on defence: the amount that should be spent if all other things were equal. Unfortunately, all other things are rarely equal; hence, governments cannot budget in this way. Cabinet must pay attention to the opportunity costs associated with spending more on one department or priority at the expense of others. It cannot avoid the trade-offs that necessarily accompany policy-making and budget setting. Were parliamentary defence committees granted the power to alter the defence budget, however, they might still be inclined to think about military spending as an isolated expense. This could lead committee members to demand an increase in the defence budget without having to be responsible for or even fully cognizant of the opportunity costs such an increase would entail. Given the relative size of defence spending compared to other federal expenditures, furthermore, adjustments made by defence committees could wreak havoc with the Department of Finance's budgetary planning processes and the government's policy agenda. And yet, in the end, the government, not the defence committee, would be held to account for the federal budget.

Still another problem relates to interactions between parliamentary committees and interest groups. As Franks has argued, committees tend to build close ties with interest groups and their spokespersons (1987, 174-5). Committees call on these spokespersons when they need expert witnesses. Given their lack of expert research staff, committees also tend to rely on the arguments of interest groups when questioning government policies. Interest groups, meanwhile, view parliamentary committees as attractive targets for their lobbying efforts. Convincing a parliamentary

committee to take up one's cause or echo one's arguments builds an interest group's political capital and clout. Committee reports, in fact, are an ideal means of laundering lobbying points and giving them an air of unbiased legitimacy. Considering this closeness between interest groups and parliamentary committees, there is a risk that lobbyists could acquire an unwarranted degree of influence over defence policy if parliamentary defence committees were granted a meaningful role in defence decision-making and budget setting. Depending on the ideological leanings of the members, lobbyists representing defence industries, promilitary associations or the peace movement could leverage their relations with committees to redirect Canada's defence agenda. Insofar as interest groups such as these represent small segments of the Canadian population, increasing their ability to influence the Canadian defence agenda would counteract the democratizing effect of including parliamentary defence committees in the policy-making process.

All told, strengthening parliamentary defence committees is an attractive goal, but it should be pursued cautiously. Committee reforms that weaken ministerial responsibility, seek to erase partisan debate or risk empowering staffers and interest groups should be avoided. In spite of their seeming advantages, these reforms would undermine defence accountability rather than improve it. Not all reforms must be set aside, however. Keeping MPs on defence committees for the entirety of a parliament, giving members security clearances and encouraging parties to build their own defence expertise would improve defence accountability without incurring the disadvantages associated with more ambitious reforms.[9]

### Broadening military answerability

Yet another reform idea circulating within the defence community deals with how military personnel answer questions before parliamentary defence committees. At issue is whether military answerability — here defined as "the duty to inform and explain" matters of fact to parliamentarians (Hurley 2006, 128) — should be expanded to permit officers to discuss the advice they have given to the civilian authority and/or to openly disagree with their minister on matters of policy. Those who answer in the affirmative believe that defence accountability would be enhanced if military leaders were allowed to discuss their policy preferences and professional advice, rather than merely informing parliamentarians about matters of fact and explaining military issues to committees. A different view holds that this could breed distrust between the armed forces and the government, alter Canada's civil-military balance and politicize the Canadian Forces. These problems outweigh the benefits that would arise from broadening military answerability before parliamentary defence committees. This reform idea, therefore, must be rejected.

Broadening the answerability of military leaders to parliamentary committees would bring several advantages. Were senior military leaders permitted to disclose the military advice they have given to governments, committees could examine whether the advice was followed, and if it was not, why not. This information would be particularly helpful if the government's decision to ignore the military's advice had led to a significant failure or calamity. Likewise, if military leaders were allowed to openly express their disagreements with a government's defence policies or to speak more frankly about the state of the armed forces, committees could have access to information that would markedly improve their ability to hold the government to account for national defence matters.

These virtues notwithstanding, the disadvantages of broadened military answerability are considerable. In Canada, successful management of the military and defence policy depends on the maintenance of a strong working relationship between the defence minister and senior military leaders, between the individual who is responsible for national defence and those who execute policy. This relationship must be based on mutual respect. Whereas ministers must respect the military's expertise in the application of armed force, the armed forces must respect the right of ministers to set the policies of their choosing. For ministers, this means that they must acknowledge and listen to military advice. For senior military leaders, this means not contradicting or questioning a minister's preferences after advice has been duly given or a decision has been made. Hence, when military leaders contradict or question a minister's preferences in a public forum, they violate a trust. If military leaders do this on a regular basis, they can weaken their relationship with the defence minister. Rather than fostering a sense of cooperation between the armed forces and the civilian authority, this practice could bring about a confrontational mindset. Were this to occur, the minister could be less willing to consult with senior military leaders when making defence decisions, and Canadian defence policy could suffer as a result.[10]

Widening the military's answerability before parliamentary committees would undoubtedly increase instances of military leaders contradicting or questioning the defence policies of the government. As noted, this is precisely why the reform would enhance the ability of opposition MPs and senators to criticize the defence minister. Pursuing this reform would thus erode the cooperative relationship that should exist between defence ministers and military leaders. This would not be a desirable outcome, particularly when the quality of Canadian defence policy is at stake.

Beyond creating a rift within the defence establishment, broadening the military's answerability before parliamentary committees would alter Canada's civil-military balance. Through their answers to committee members, military leaders could put additional pressure on defence ministers to adopt policies that are preferred by the armed forces or a particular service. This could occur in two ways. First, the answers of military leaders might serve as the guiding ideas behind committee reports. Indeed, a recent SCONSAD report used the testimony of Canada's service chiefs to criticize the government and call for a new approach to defence spending and policy (2007). If military answerability were broadened, it is likely that this would happen more often, and not only before the less partisan committees of the upper house. Second, military leaders could use their testimony before committees to fuel criticism of the government and build support for the armed forces' policy preferences in the media. Because their comments would be before a parliamentary committee, it would be difficult to prove that the senior military leadership was intentionally pandering to public opinion. But, if sufficiently controversial, their testimony could have the same effect as criticizing government policy during a press conference or a media interview.

Of course, if the military's answerability before parliamentary committees were broadened, these actions would be consistent with the aims of the reform. Yet it is important to recognize that implementing this reform would augment the military's ability to influence defence policy; it would allow the Canadian Forces to use parliamentary committees and media outlets to exert pressure on the defence minister and cabinet. In turn, this might reduce the defence min-

ister's control over matters of national defence. As the basic principles of civil-military relations in a liberal democracy remind us, such an outcome would not be favourable or advisable.

All this said, it must be noted that to require officers not to divulge advice given to a minister and not to question government policy in no way implies that military officers are expected to deceive committees or protect dishonest ministers. On points of fact, as opposed to professional opinion or advice, military officers are expected to answer questions honestly and directly. Providing such information is an essential function of the military's answerability to Parliament. When asked by a parliamentary committee when operational details were sent to a minister, for instance, officers must answer honestly, since they are being asked to describe a sequence of events rather than the advice they provided to their political masters.

Two events illustrate this important distinction between disclosing information on the one hand, and revealing the professional advice offered to ministers or the policy preferences of the senior military leadership on the other hand. In early 2002, Defence Minister Art Eggleton told the House of Commons that he had learned only on January 29 that prisoners taken by the Canadian special forces had been handed to American forces, more than one week after the fact. Before a Commons committee, however, Vice-Admiral Greg Maddison testified that he had informed the Minister about the prisoner transfer on January 21 (CTV News 2002). Although Maddison contradicted Eggleton, he did so on a matter of fact, not on a matter of policy. Moreover, while Maddison told the committee that he had explained the nature of the transfers to Eggleton, the Vice-Admiral did not divulge details about any advice he might have offered the Minister regarding the handling of prisoners. More recently, in December 2009, the Chief of the Defence Staff, General Walter Natynczyk, admitted that members of the Canadian Forces were aware that Afghan prisoners they had handed over to Afghan authorities in 2006-07 had been abused. When he made this statement, Natynczyk appeared to contradict Defence Minister Peter MacKay's assertions that the government had no confirmed evidence that detainees transferred to Afghan authorities by the Canadian military had been abused or tortured (CBC News 2009). Here again, however, the General was clarifying a point of fact, not questioning government policy or revealing the details of professional advice given to the Defence Minister. These types of disclosures by senior officers are entirely appropriate, necessary for defence accountability and in keeping with the existing scope of the military's answerability to Parliament.

The politicization of the Canadian Forces is a third disadvantage that risks accompanying a broadening of military answerability. As noted, if this reform were implemented, military leaders would serve as a valuable source of information with which to potentially embarrass the government. Opposition parties would thereby have an interest in encouraging members of the military leadership to voice their disagreements with Canada's defence policy. Military leaders, meanwhile, would have an interest in having opposition parties champion their defence preferences when critiquing the government. Over time, this could lead members of the military and an opposition party to develop common cause against the policies of the governing party. As well, if one party consistently sided with military leaders on policy questions, it could lead the armed forces to prefer governments from one political party over another. In light of the respect the military currently enjoys, moreover, political parties could be tempted to promote the policy preferences of the

Canadian Forces to boost their own popularity. Such developments would be an inappropriate and regrettable development in Canadian civil-military relations. The military must remain apolitical and impartial toward the party that forms the government. Hence, although the Canadian military's professionalism would likely prevent a blatant politicization of the armed forces, it would nonetheless be wise to avoid reforms that might fuel its development.

Fundamentally, the debate surrounding military answerability is about a more basic consideration: whether the armed forces serve Parliament or the Crown. The notion that the armed forces should serve Parliament and therefore be fully answerable to it is appealing. MPs and senators, after all, are respectively the people's and the nation's representatives at the federal level (D.E. Smith 2003). Denying that the military ultimately serves or should be made to ultimately serve Parliament is, it seems, tantamount to saying that the armed forces do not belong to the Canadian people. This is clearly unacceptable in a liberal democracy.

Yet the constitutional reality of the military's service to the Crown is more complex than this argument suggests. As the sovereign power, the Crown is expected to promote and protect the well-being and interests of all Canadians. Although the Crown does not "represent" the people in an electoral sense, it is nonetheless expected to care for their welfare (Loughlin 1999, 52-3). In serving the Crown, therefore, the armed forces are acting on behalf of the sovereign power that attends to Canadians. Indeed, one could say that the military, by serving the Crown, is only one degree removed from the people. Arguably, this is the same distance the military would have from the people if it served the people's elected representatives. The principles of responsible government, moreover, ensure that the military serves a power that is controlled by elected representatives who hold the confidence of the House of Commons, the democratically elected popular assembly. Responsible government thereby guarantees that Canadian civil-military relations are democratic.

As servants of the Crown, members of the armed forces are mandated to execute, abide by and defend the policies of the governing cabinet, save for in the most exceptional of cases. As with the civil service, constitutional practice dictates that the military must advise and be accountable to the government of the day. Servants of the Crown do not advise parliamentarians who are not members of cabinet, nor are they expected to help parliamentarians hold the government to account. Hence, however effective it could be, attempting to use the military's answerability before committees to improve defence accountability must be abandoned as a reform idea because it contravenes basic principles of Canadian government.

### Summary: Responsible reform

In sum, many of the reforms that aim to increase Parliament's role in Canada's defence affairs are appealing but likely to undermine defence accountability. Although their democratizing potential may be attractive and elicit a favourable reaction at first glance, most of these reforms must be rejected if Canadian defence accountability is to remain effective. Likewise, while the concentration of national defence powers and responsibilities within the executive may seem unbalanced compared to the practices of other liberal democracies, the benefits of the Canadian system are many. Responsibility for national defence is clearly focused in the

Canadian system, as are the relations of accountability between the governing cabinet and the House of Commons. In addition, preserving the Crown's executive prerogative over national defence ensures that the Canadian government can pursue more consistent defence policies and set defence budgets that take opportunity costs properly into account.

All this notwithstanding, Parliament's involvement with Canadian defence and its capacity to hold governments to account for defence matters can be improved. But efforts to bring about such improvements must respect and ideally strengthen the principles of responsible government and adversarial partisanship. Responsible reforms of this type include making partisan take-note debates, though not binding or free votes, mandatory before each military deployment. These debates would offer opposition parties the opportunity to criticize and hold the government to account, while placing responsibility for the deployment squarely on the governing cabinet's shoulders. Next, to bolster their knowledge of defence and military issues, MPs should be mandated to serve on defence committees — and all other committees, for that matter — for the entirety of a parliament. To widen their access to information, defence committee members should be granted security clearances. DND, furthermore, must provide parliamentary committees with better and more transparent information. Finally, Canada's political parties should build their defence expertise. Better-informed parties are critical for improving defence accountability in a system that relies on the opposition to criticize and oversee the government.

## The Government and National Defence

When General Hillier declared that "civilian control of the armed forces is not civil service control of the armed forces" (CTV Newsnet 2008), he lent credence to the view that senior bureaucrats play an inappropriately large role in keeping the chief of the defence staff and the Canadian Forces accountable to the defence minister and cabinet. Proponents of this view hold that senior bureaucrats, such as the deputy minister of national defence and the Clerk of the Privy Council, lack the authority and expertise to challenge the advice the CDS provides to elected leaders (Hillier 2009, 414, 422; Bland 1987, 1995, 1997). They further contend that civilian bureaucrats, such as the assistant deputy minister for policy, do not possess the specialized military knowledge required to offer defence policy advice to the civilian authority, and that only the CDS should be requested to provide such advice. Moreover, in his autobiography, Hillier questions what he sees as the unwarranted influence of the Department of Foreign Affairs and International Trade over defence policies and decisions, of Industry Canada and Public Works and Government Services over defence procurements, and of the Department of Finance and Treasury Board Secretariat over defence expenditures and programs (Hillier 2009, 349, 353, 411-27). For those who share Hillier's outlook, relations between the civilian authority and the military are needlessly undermined by the presumptions and questionable powers of these senior bureaucrats.

Against these contentions, this section argues that senior bureaucrats play a legitimate role in bolstering accountability in matters of national defence. In making this case, the section relies on Canadian statute laws, such as the *Interpretation Act*, the *Financial Administration Act*, the *Federal Accountability Act* and the *National Defence Act*; government guidance documents; and studies of Canadian public administration. The section argues that senior bureaucrats play vital roles in ensuring that the military is accountable to the defence minister, and the prime minister, that civilian defence officials and

the defence minister are accountable to the prime minister and that DND and the Canadian Forces are managed in a manner that reflects governmental concerns and priorities, all while respecting the importance and rightful place of bureaucratic and military advice and expertise. It will further be argued that existing arrangements allow military leaders to challenge the decisions of senior bureaucrats and to express their concerns with the bureaucracy's advice to the defence minister, thereby ensuring that civilian officials within DND are properly scrutinized as well.

The section begins by exploring the defence accountability challenges that liberal democratic governments face. Next, it examines how Canada addressed these defence accountability challenges in the past. Third, the section outlines the responsibilities and lines of accountability that exist among Canada's national defence actors, and senior bureaucrats in particular. Finally, the section concludes by demonstrating how these actors, responsibilities and lines of accountability interact to produce an effective system of national defence accountability within the Canadian government.

### Defence accountability within government

Notable theorists of civil-military relations have argued that few liberal democracies face serious threats to the principles of civilian supremacy and civilian control of the armed forces (Feaver 2003; Finer 1975). Whereas the governments of many developing and authoritarian states seek to control militaries that may launch coups or dominate major policy decisions, the civil-military problems that liberal democracies encounter are more benign. Thanks to a deep-seated respect for civilian supremacy among professional militaries in most liberal democratic states, liberal democratic governments are rarely concerned with coups or threats to civilian control of the military. Instead, the civil-military problems that liberal democratic governments face resemble those that they confront when attempting to manage their civilian bureaucracies.

Elected leaders in liberal democratic states are responsible for the affairs of government. Yet for highly complex, modern governments to work, elected leaders must delegate certain responsibilities and duties to bureaucrats. As principal-agent theory observes, however, this delegation of responsibilities and duties creates a number of accountability dilemmas, such as how to ensure that bureaucrats are dutifully performing their tasks, promoting the preferences of their elected principals instead of their own and responsibly spending the state's dollars (Brehm and Gates 1997). According to Peter Feaver of Duke University, civil-military relations in liberal democracies are characterized by these principal-agent dilemmas as well (2003, 1-15). To protect national security and maintain a military that effectively serves as an instrument of foreign policy, elected leaders delegate certain national defence responsibilities to their defence bureaucracies and armed forces. In so doing, however, elected officials encounter a number of defence accountability challenges. The predominance of these challenges is such that liberal democratic civil-military relations are best understood as defence accountability issues, rather than questions of asserting civilian supremacy or civilian control. Among the defence accountability dilemmas are the following:

- How to ensure that the military and/or defence department spends the military/defence budget effectively, efficiently and legally
- How to ensure that the military and/or defence department follows both the spirit and the letter of the directives issued and the policies chosen by elected leaders

- How to craft defence budgets and policies and make defence decisions without being overly reliant on military and/or defence department expertise
- How to ensure that the military and/or defence department is not pursuing its own parochial interests or concerns at the expense of the elected leaders' interpretation of the state's interests or concerns
- How to address the first four problems while respecting the military's and/or defence department's professionalism and expertise

Governments address these defence accountability challenges in different ways, depending on their historical experience with defence accountability problems and on their constitutional structures and customs. To appreciate the particularities of a given government's system of defence accountability, both of these factors must be examined.

## Canada's defence accountability experience

Canada has encountered relatively few defence accountability dilemmas since the end of the Second World War. To address those dilemmas that did arise, however, successive Canadian governments narrowed the military's duties while increasingly delegating responsibilities to civilian defence bureaucrats. In so doing, governments hoped that these bureaucrats would monitor the military and keep it accountable to the defence minister, cabinet and the prime minister. As well, governments hoped that civilian defence officials would provide a nonmilitary source of defence advice, though steps were taken to guarantee that the military's unique professional expertise was still respected. The military leadership, meanwhile, would exercise a challenge function against the senior defence bureaucrats, allowing the defence minister to know whether the civilian department was falling short in fulfilling its responsibilities. This increased delegation of responsibilities to civilian defence officials coincided with an emphasis on horizontal government, which required that priorities and policies be coordinated across departments. Horizontal government, in turn, coincided with an increased emphasis on keeping all departments and ministers, including DND, the defence minister and civilian defence officials, more accountable and responsive to the prime minister and the central agencies that helped the prime minister set government priorities. As these central agencies grew in importance, they became an additional tool for keeping defence ministers, DND and the military responsive and accountable to the prime minister. Finally, the development of a culture of financial accountability meant that central agencies played a growing role in overseeing defence expenditures.

### *Canada's evolving defence administration*

In 1950 the Canadian military and defence budget was greatly expanded in response to the Korean War. Once the war ended, in 1953, the military was not returned to its peacetime size. With the Cold War confrontation between the capitalist and Communist blocs now the defining feature of international politics, the expanded Canadian military was maintained to assist with the containment of the Communist threat. Canadian forces were permanently deployed to Western Europe and the North Atlantic as part of Canada's contribution to the collective defence of allies belonging to the North Atlantic Treaty Organization (NATO). By the end of the decade, Canada and the United States had also built a continental air defence system commanded by the binational North American Air Defence Command (NORAD). Though seen as necessary and desirable, these developments fuelled certain defence accountability dilemmas.

Spending problems nagged at the Canadian government throughout the 1950s and 1960s. No matter how much the government spent on defence, the military services claimed that they needed more to meet Canada's NATO obligations. These demands became increasingly difficult to meet as the federal government introduced expensive social welfare programs in the early 1960s. Equally problematically, the military services were inefficient and ineffective spenders. The three separate services were rife with duplications and redundancies. Closely linked to these spending problems were the conflicting interests generated by service rivalries. As Canada's three military services competed for a larger, or at least equal, share of the defence budget, the three service chiefs had an incentive to embellish their funding requests. Admitting that one's service was adequately funded would, in all likelihood, lead the defence minister to privilege the funding requests of the two other services. Hence the services were driven to continually stress their need for additional funds (Bland 1995, 63-90).

This competition also surrounded the practice of offering the minister service-specific military and policy advice that served service interests. Since funding decisions were inevitably tied to policy choices, each of the chiefs insisted on providing the defence minister with advice that highlighted the importance of his particular service to the government's defence and foreign policy ambitions. As the primary source of military advice, the chiefs were well placed to resist efforts to weigh the relative worth of each service's contribution to Canada's national defence and foreign affairs. When offering military and policy advice, furthermore, the service chiefs often referenced the expectations of their sister services in allied countries (Bland 1995, 63-90). Indeed, Canada's services were more comfortable coordinating efforts and policies with their counterparts in the United States and Western Europe than they were working with the other branches of the Canadian military. This led to the perception that the navy, army and air force chiefs were unduly focused on promoting the interests of their allied service sororities. Presented with three differing and often divergent sources of military advice, the defence minister was then left to adjudicate between them when formulating a single, coherent defence policy. From the end of the Korean War to the mid-1960s, the result of this competitive process was defence policies that sought to accommodate the interests and aspirations of all three services and of the allied service sororities, instead of arriving at a military posture that better reflected Canada's defence requirements and realities (Bland 1995, 63-90).

Problems related to the execution of policy were also an irritant at this time. During the Cuban Missile Crisis, the Royal Canadian Navy had moved forces in support of the United States Navy without the approval of Prime Minister John Diefenbaker. At the Royal Canadian Air Force's insistence, moreover, Defence Minister Douglas Harkness agreed to place Canadian NORAD forces on heightened alert during the crisis without informing Diefenbaker, despite the fact that the Prime Minister had refused the same request (Haydon 1993). This episode demonstrated that defence ministers who sided with the military could create accountability dilemmas for a prime minister.

The Liberal government of Lester B. Pearson implemented a notable reform to address these accountability dilemmas. In 1964, Pearson's defence minister, Paul Hellyer, personally wrote and issued a defence policy document that announced the integration and unification of Canada's three military services into a single entity: the Canadian Armed Forces. Though he

faced stubborn resistance from the services, Hellyer believed that integration and unification were a necessity. By fusing the services into a single body, Hellyer hoped to eliminate redundancies and duplications, making the military a more efficient and cost-effective organization. As well, creating a single, unified force would simplify efforts to track and control military wastefulness. Integration and unification thus served to address the spending problems that plagued the Canadian military (Gosselin 2009a, 2009b).

Heading the unified forces would be a single chief of the defence staff. An essential component of integration, the office of CDS was meant to address the accountability challenges governments had encountered in the 1950s and early 1960s. The CDS would be the sole source of military and policy advice to the defence minister. No longer would the civilian defence minister be forced to balance and assess the recommendations of the three military service chiefs. From this point forward, it was hoped, the CDS would calculate Canada's defence needs and present a single set of recommendations to the minister. Above all, in considering the country's defence requirements, the CDS would rise above parochial interests, particularly those tied to allied service sororities. The CDS would also ensure that the military properly obeyed and executed civilian directives. All orders to the Canadian military were to be issued through the CDS as the highest-ranking officer in the Canadian Forces. This structure simplified the national chain of command and made clear that military units could act only on orders from the CDS, notwithstanding their ties to allied militaries, allied military plans or the provisions of international agreements.[11]

Unification and the creation of the office of CDS, however, failed to solve significant defence accountability problems. Indeed, they highlighted the need for further defence reform. When Prime Minister Pierre Trudeau sought to reorient Canadian foreign and defence policy in 1968, his government continued to face problems with execution of policy. Shortly after his election, the Prime Minister directed the military to draft a set of policies that would withdraw Canada's forces from Western Europe. In spite of the Prime Minister's direct request, the CDS refused to formulate defence policies that fit with Trudeau's vision. Trudeau's defence minister, Léo Cadieux, sided with the CDS, reinforcing the notion that a defence minister could pose a defence accountability problem for a prime minister. After two years of asking the CDS to craft policies that were agreeable to the Prime Minister, Trudeau's second defence minister, Donald S. Macdonald, decided to circumvent the military. Gordon Smith, a young foreign service officer with training in strategic studies, was tasked with writing the government's new defence policy. The result of Smith's efforts was *Defence in the 70s*, a document written with minimal military input (Tomlin, Hillmer and Hampson 2008, chap. 6).

Trudeau's difficulties in getting the defence policies he requested highlighted lingering accountability dilemmas. As the recognized expert in matters of national defence, the CDS wielded a great deal of influence over Canada's defence policies. With no dedicated civilian defence experts who could be asked to challenge the military's advice or offer alternative policy recommendations, Canadian governments were dependent on the advice of the CDS. The CDS, in turn, could use this monopolization of defence policy advice to advance policies that corresponded with the military's priorities and views of the world. While creating the office

of CDS had helped address the problem of service interests, it did not prevent the CDS from protecting the military's organizational interests as a whole (Tomlin, Hillmer and Hampson 2008, chap. 6).

Without another high-ranking source of defence policy advice, elected leaders were ill placed to question the CDS's recommendations. In fact, when a government was determined to pursue policies that ran counter to military advice, it needed to abandon existing policy-making processes, as Hellyer did when he personally wrote the 1964 defence White Paper and as occurred when Smith was asked to write *Defence in the 70s*. This abandonment of the existing defence policy-making process was a telling sign of the dissatisfaction that elected leaders felt with the military's role as the government's defence policy advisers.

In June 1971 the Trudeau government created the Management Review Group (MRG) to study the management of defence in Canada. The MRG's report identified a number of shortfalls in Canada's existing structure of defence management and administration. Most notably, the report commented that too many demands and expectations were placed on the defence minister, that the military was slow in responding to the government's changing defence priorities and that there was an "inefficient and inappropriate" use of defence resources. According to the MRG, the source of these problems was administrative in nature. For instance, the report observed that there was a "lack of an adequate Department planning facility to interpret Government policy into clear, meaningful operational goals and management objectives." As well, the report observed that there was a failure "to make effective inputs to the Government's planning and policy formulation processes." These findings reinforced the Trudeau government's sense that Canada's existing system of defence management and accountability was broken (MRG 1972, executive summary).

The MRG report recommended a number of reforms to address problems it had found. First and foremost, the report recommended that the Department of National Defence and the Canadian Forces be fused into a single entity, with the civilian department assuming responsibility for defence administration and the armed forces focusing on military operations and readiness. For the MRG, this structural change was needed to improve the efficiency of Canada's defence effort, to ensure that defence resources and dollars were properly spent and to keep the military centred on the "sharp end." Next, the report recommended that the deputy minister be allowed to act in the defence minister's stead on nonpolitical matters of national defence, thereby easing the burden on the minister and strengthening the minister's ability to keep the military accountable. Under this organizational concept, in fact, the CDS was to be subordinate and accountable to the deputy minister. Third, the MRG recommended that the CDS's responsibilities be narrowed to organizing and training the military, commanding military operations, and providing military advice to the deputy minister and the defence minister. Fourth, the report recommended that the responsibility for formulating defence policy, advising the defence minister on defence policy and managing military procurements should be delegated to civilian assistant deputy ministers (ADMs) who would report and be accountable to the deputy minister. Doing so would provide the defence minister, cabinet and the prime minister with a more responsive, and nonmilitary, source of defence policy and procurement advice (MRG 1972, executive summary).

In the end, many, but not all, of the MRG's recommendations were gradually implemented. The Canadian Forces and DND were linked, though not fused into a single entity. Instead of the CDS being made subordinate to the deputy minister, the two were made equals under the defence minister, with the deputy minister heading DND and the CDS heading the Canadian Forces. Specifically, the deputy minister was delegated responsibility for the administration of DND, including departmental and military finance, personnel, procurement and policy, while the CDS was delegated responsibility for the management and control of the military. Aside from these alterations, however, the MRG's principal recommendations were implemented. Most importantly, while the CDS continued to provide the defence minister with military advice, a civilian ADM reporting to the deputy minister was delegated responsibility for formulating defence policy and providing defence policy advice, and another civilian ADM reporting to the deputy was delegated responsibility for managing defence procurements and providing defence procurement advice.

As hoped, the 1972 reforms strengthened Canadian defence accountability. Expanding the deputy minister's responsibilities and clarifying the office's roles eased the burden placed on the minister, without sacrificing civilian oversight of the military and management of national defence issues. Linking DND and the Canadian Forces allowed the deputy minister to better monitor military expenditures and activities. Deputy ministers used their responsibilities for defence administration, finance, procurement and policy to oversee military planning, training and operations, making sure the Canadian Forces followed both the spirit and the letter of government directives (Nixon 1981). On the other side of the chart, since CDSes were responsible for planning, training and operations, they were able to influence departmental policy, procurement and budgeting, as well as challenge the senior defence bureaucracy when their views conflicted. In terms of the policy-making and procurement process, moreover, delegating the provision of defence policy and procurement advice to civilian officials made these processes more responsive to the wishes of the defence minister, cabinet and the prime minister. Preserving the CDS's direct access to the defence minister, however, ensured that the CDS could still offer informal defence policy and procurement advice to the minister, and it guaranteed that the defence minister had direct, unfettered access to the CDS's military advice and expertise, including advice and expertise that ran contrary to the deputy minister's. Hence, while defence policy and procurement was made more responsive to government objectives, professional military advice was not disavowed and a check against the civilian department was put in place.

Critics were quick to decry the 1972 reforms. Chief among their critiques was that the linking of DND and the Canadian Forces was "civilianizing" Canadian military culture, forcing the military to accept a management philosophy that undermined traditional principles of command and leadership (Kasurak 1982). Notwithstanding these concerns, from a defence accountability perspective, the interconnected interests of the deputy minister and the CDS produced a system of checking, balancing and mutual consultation that addressed the lingering interest, execution and expertise problems that had troubled the Trudeau government and the MRG. This structure of defence accountability offered the defence minister, cabinet and the prime minister the "benefit of the best possible advice, based on full and accurate

information about costs, consequences, risks and options" related to Canada's national defence (DND 1999, sec. II). With respect to the linking of the Canadian Forces and DND under a single national defence headquarters, moreover, defence academic Albert Legault rightly noted: "Regarding the distribution of responsibility between civilians and the military within DND, the present system meets the requirements of a modern society...In this field, civilians and the military must work hand in hand, they are indispensable to each other, and this could not be otherwise" (1997, 4).

Critics have also questioned whether the 1972 reforms improved the quality of Canadian defence policy. As many scholars and analysts have argued, governments from the Trudeau Liberals onward have made poor defence decisions and wilfully ignored professional military advice. Indeed, critics have argued that asking civilian officials to provide defence policy advice rendered it too easy for cabinets to ignore or overlook prescient advice from the military (Bland 1987, 87-146). Yet the question of whether the defence minister, cabinet and the prime minister made the correct defence decisions is not the issue at hand.[12] What matters is that the reforms solidified the civilian authority's ultimate "right to be wrong" about defence policy (Feaver 2003, 54-95).

It should further be noted that this structure of defence accountability was not flawless. According to respected defence scholar Douglas Bland, this system created a system of "institutionalized ambiguity," where the responsibilities and accountabilities of the deputy minister and the CDS were difficult to tell apart (Bland 1997, 26-7). In addition, a sense that civilian defence officials were lacking in creativity led the Liberal government of Paul Martin to ask the CDS to direct a stalled defence policy review in 2005, thereby abandoning the spirit of the 1972 reforms (Lagassé 2009, 616-22). However, it must also be recognized that this defence accountability structure was instrumental for the successful management of Canadian defence. The co-equal footing that critics decried allowed the deputy minister and the CDS to exercise challenge functions against each other in the few cases when they could not reach a consensus. It served to reinforce the idea that the minister should not be wholly dependent on the views or advice of either the civilian department or the armed forces. Writing the 1994 defence White Paper and implementing the vital cuts it announced would have been far harder to achieve had the deputy minister, Robert Fowler, not had the authority granted to his office by the 1972 reforms (Tomlin, Hillmer and Hampson 2008, chap. 6). Furthermore, in 2007, only two years after the Martin government disregarded the spirit of these reforms, the Conservative government of Stephen Harper chose to re-embrace them. In particular, the Harper government sought to restore the deputy minister's authority to counterbalance the CDS and serve as the government's principal defence policy adviser (Lagassé 2009, 616-22). Arguably, the Harper government recognized the lasting value of the defence accountability structure that the 1972 reforms had inaugurated.

Special attention must also be paid to the critique of the 1972 reforms that was levelled in the 1997 report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia. Although it contained several questionable interpretations and contentions, the Somalia Commission report was widely read within the defence community and it continues to inform

understandings of Canadian defence administration and accountability. According to the Somalia Commission, the 1972 reforms allowed the authorities of the deputy minister and the CDS to become dangerously blurred. Deputy ministers, for instance, had been permitted to intrude into strictly military affairs, a practice that undermined the CDS and alienated field commanders from National Defence Headquarters. To address these and other problems, the Somalia Commission recommended that the authorities of the deputy minister and the CDS be clarified in law and measures taken to prevent civilian officials from interfering in uniquely military matters (CIDCFS 1997, vol. 5, 1454, 1459).

When DND learned of the commission's recommendations, it produced a report outlining the respective authorities and accountabilities of the deputy minister and the CDS (DND 1997). This report was later supplemented and reinforced by a new document, which was written with the assistance of experts in the machinery of government (DND 1999). When outlining the respective authorities and accountabilities of the deputy minister and the CDS, both documents referenced existing statutes, calling into question the necessity of clarifying the relationship in law. In his 1997 report to the Prime Minister on the leadership and management of the Canadian Forces, moreover, Defence Minister Douglas Young pledged to address the problem of civilian officials interfering with strictly military matters. Young, however, emphatically rejected the idea that National Defence Headquarters was an illegitimate entity and that civilian bureaucrats have no part to play in defence planning and policy formulation. In so doing, Young signalled that there would be no return to the pre-1972 defence structure, when the Canadian Forces and DND did not share a headquarters and bureaucrats and officers rarely intermingled. As the Minister's report noted, echoing Legault: "Civilians must have a significant role in the national defence structures of every democracy...No model is perfect. Everywhere, however, the effectiveness of the system rests on cooperation and consultation at all levels — not on totally separate structures working on the same things at the same time often at cross purposes and in ignorance of one another" (DND 1997, 29). Notwithstanding certain difficulties and kinks, Young's report categorically defended the importance and legitimacy of having senior bureaucrats involved in managing Canada's defence affairs.

*Defence and the centre*

Beginning in the late 1960s, policy-makers across the developed, liberal democratic world realized that government departments and issue areas could no longer be stovepiped, with officials and politicians allowed to pursue initiatives independently. Policy problems and solutions affected several areas and departments simultaneously. Confronting these complex problems therefore necessitated consultative, integrated responses involving several departments. Known in Canada as "horizontal government," this collaborative approach to policy-making required that ministers and officials consult with their counterparts in different parts of government when pursuing new initiatives, programs or policy ideas (Savoie 1999, 59-62). Defence was no exception. Matters of national defence, such as international deployments and equipment procurements, affected a number of departments, such as the Department of External Affairs, Industry Canada and Public Works. Accordingly, defence policies and procurements would need to be developed with greater regard to the views and concerns of these other departments (DND 1999, 9).

However, getting ministers and departmental officials to embrace horizontal government proved difficult initially. Ministers and departments were tempted to protect their turfs and leave consultation to the end of the policy process, when proposals were put forward to cabinet. To rectify this situation and make horizontal government a reality, the Trudeau government strengthened the power of the Privy Council Office, the central hub of the federal government headed by the Clerk of the Privy Council, Canada's highest-ranking civil servant,[13] who also served as secretary to cabinet. From the Trudeau government on, the Clerk was tasked with implementing horizontal government (Savoie 1999, 109-55). Clerks did so in two ways. First, using their authority as secretary to cabinet, Clerks prevented departmental policy proposals from being discussed in cabinet committees or in the full cabinet until they had been discussed with stakeholders in other departments and agencies. Second, with the support of their prime ministers, Clerks expanded the responsibilities of departmental deputy ministers to include a focus on horizontal policy-making. From this point forward, deputies would no longer concern themselves with the affairs of their departments alone. They would belong to a close-knit group of senior government executives committed to stakeholder consultation and accountable to the Clerk for fostering horizontal policy-making practices within their departments (Savoie 1999, 248-59).

This emphasis on horizontal government altered Canadian defence administration in two ways. Making deputy ministers responsible for coordinating policy consultations with stakeholders in other departments strengthened their positions relative to the CDS. Whereas the deputy minister became a key policy player across the government and within DND, the CDS stayed focused on happenings within the Canadian Forces and DND. CDSes rarely interacted with officials outside of DND, which in turn diminished their ability to build relationships and influence in the wider policy-making process that characterized horizontal government.[14] Indeed, horizontal policy-making reinforced the idea that deputy ministers needed to be responsible for defence policy-making, since CDSes lacked the bureaucratic experience necessary to build support for DND initiatives across Ottawa. Next, horizontal government increased the importance of the Clerk in defence administration and accountability. Convincing the Clerk that defence policy initiatives were supported by stakeholders became necessary before these initiatives could make their way through the cabinet committee system. Relatively marginal actors in defence affairs beforehand, Clerks assumed a supervisory role that granted them significant input into the latter stages of defence policy-making.

The importance of the deputy minister and the Clerk was further amplified by the concentration of power in the hands of the prime minister that began during the Trudeau era. As government expanded in the 1960s and early 1970s, elected leaders felt that it had become more difficult to change departmental policies and practices. Prime Minister Trudeau found the situation particularly frustrating during his first years in power. Though Trudeau wanted to bring about key policy changes, he felt hamstrung by the sheer number of policy proposals put forward by his ministers and by the bias favouring the status quo within the civil service. In response to these difficulties, Trudeau and his advisers chose to centralize the government's policy-making agenda in the Privy Council Office and the Prime Minister's Office (Savoie 1999, 85). This allowed the two offices to focus their efforts on overcoming

bureaucratic inertia and achieving policy change in specific areas, without being distracted by a constant stream of alternative proposals from ministers and their departments. To achieve this objective, however, it was necessary to communicate the Prime Minister's priorities to ministers and departments and, more importantly, to make sure they did not ignore or divert from them. Responsibility for communicating and monitoring the adherence of ministers and departments to the Prime Minister's policy priorities was delegated to deputies and the Clerk. Whereas the Clerk verified that policy proposals and initiatives making their way through the cabinet committee system reflected the Prime Minister's priorities, deputy ministers guaranteed that their departments reflected these priorities when formulating new policies. Deputies, furthermore, were tasked with explaining the Prime Minister's priorities to ministers and reporting back to the Clerk if their ministers ignored them (Savoie 1999, 253-5).

These developments inevitably transformed defence administration and accountability. From the Trudeau era onward, the independence of defence ministers was circumscribed. While defence ministers remained responsible for national defence, they were expected to reflect the prime minister's priorities when setting defence policy. Similarly, the deputy minister of national defence endeavoured to follow the Privy Council Office's instructions when crafting defence policy and administering DND. Also, the deputy was henceforth required to remind the defence minister of the prime minister's expectations regarding national defence. The Clerk, meanwhile, verified that policy proposals coming from DND were in sync with the prime minister's priorities, and that the deputy was dutifully explaining these priorities to the defence minister. In the rare cases when DND appeared unwilling to follow the prime minister's direction, the Clerk could choose to temporarily take control of the defence policy-making process within the Privy Council Office.

Toward the end of the 1970s, two other central agency actors, the Department of Finance and the Treasury Board Secretariat, began playing a larger role in overseeing departmental affairs (Good 2008). Despite long-standing efforts to control the growth of federal expenditures, in the mid-1970s it appeared that cabinet had lost control of government spending. Observers noted that this was a worrisome development, to say the least. Departmental expenditures increased throughout the government, the federal budget deficit grew, and the national debt deepened. A concerted effort to control expenditures was needed. In this context, the finance department became more involved in monitoring departmental expenditures. It scrutinized departmental budgets and spending plans with greater vigour and attention. Over the next decade, the finance department worked to prevent large-scale budget increases that were not absolutely necessary. And starting in the 1990s, the department managed to impose government-wide budget cuts that brought federal expenditures back to fiscally realistic levels. While the finance department focused on controlling the amount of money the government was spending, Treasury Board sought to ensure that departments spent their budgets effectively and efficiently. Reflecting a wider movement to reduce public sector waste through the adoption of private sector management techniques, Treasury Board reviews of departmental expenditures, and capital programs in particular, quickly assumed a permanent place in the business of government.

The Department of Finance and Treasury Board paid special attention to DND, given the relatively high percentage of federal expenditures earmarked for national defence. DND budgets were rigorously scrutinized by the finance department, and Treasury Board carefully dissected defence programs and procurement plans. The importance that the two central agency actors placed on departmental budgets and spending augmented the deputy minister's authority within DND. As the official responsible for departmental finances, the deputy was expected to bring DND into line with the standards of the finance department and Treasury Board. When the finance department challenged the defence budget or Treasury Board found fault with defence programs or procurements, moreover, the deputy minister was required to defend DND or implement their recommendations. At times, this meant that the deputy was forced to impose difficult budgetary cuts or program reviews on the military. And having a deputy minister with the authority to do so became an essential component of Canadian defence administration and accountability.

## Defence responsibilities and accountabilities

As noted, prominent critics have argued that the structure of defence administration and accountability outlined above is inappropriate and unfounded in law (Bland 1995). Above all, they contend that statute law does not support the roles that senior civilian bureaucrats and central agencies play in keeping the military and DND accountable to the defence minister and the prime minister. In addition, they argue that the responsibilities and lines of accountability held by defence, military and central agency actors remain confused and unclear. Despite the publication of two documents clarifying the roles and authorities of the senior members of the defence establishment, the view still resonates (Hillier 2009). Against these judgments, the following section demonstrates that the roles, responsibilities and lines of accountability that form Canada's structure of defence administration and accountability are comprehensive and in keeping with statute law and constitutional custom. It also demonstrates that this system of defence administration and accountability is more than a series of "lines and boxes" that have little bearing on how the defence portfolio is actually managed. Although personalities and circumstances will have an impact on how the defence portfolio is managed on a day-to-day basis, the existing structure outlines where authorities and accountabilities lie. When conflicts or disagreements arise between the major players, these authorities and accountabilities highlight who decides what and why, and who is accountable to whom and why.

Understanding Canadian defence administration and accountability requires a closer examination of the responsibilities, authorities and accountabilities of several actors. These actors are the minister of national defence and cabinet, the prime minister, the chief of the defence staff, the governor general, the deputy minister and assistant deputy ministers of national defence, the Clerk of the Privy Council and secretary to cabinet, other central agency actors (the Privy Council Office's Foreign and Defence Policy Secretariat, the Department of Finance and Treasury Board Secretariat) and other line departments.

### *The minister of national defence and cabinet*

The defence minister is individually responsible for Canada's national defence. Section 4 of the *National Defence Act* states that the defence minister is responsible for the "management and

direction of the Canadian Forces and of all matters relating to national defence." This means, in practice, that the defence minister is responsible for managing and directing the affairs and activities of DND and the Canadian Forces. Encompassing setting Canadian defence policy, determining the size and nature of Canada's military capability, maintaining military infrastructures and installations, directing the actions of the Canadian military and deciding on the scope and duration of the military's national and international operations, the defence minister's responsibility covers every facet of Canada's national defence.[15] There is no matter of national defence that is beyond or outside the defence minister's responsibility (DND 1999, 9). In fact, it must be stressed, contrary to the interpretation stated in the Somalia Commission report (CIDCFS 1997, vol. 1, chap. 6), responsibility for Canada's national defence is not shared between the defence minister and the chief of the defence staff. When the concept is used in its constitutional sense, the individual responsibility for Canada's national defence is the defence minister's alone.

As noted in the first section of this study, given the constitutional principle of individual ministerial responsibility, the defence minister's first line of accountability is to the House of Commons (Privy Council Office 1993, 3-4). The minister is answerable and accountable to the House of Commons and parliamentary committees. If fault is found with Canadian defence policy or the activities of the military, the defence minister must explain the government's position, remedy the situation or resign. It must be stressed again, however, that the House of Commons has no responsibility for national defence, apart from expressing or withdrawing confidence in the governing ministry and reviewing defence estimates. While it is incumbent on the defence minister to consult with MPs about Canadian defence, the minister is under no obligation to heed the advice of the House of Commons, the Senate or the committees of either house about Canada's national defence.

In line with the conventions of collective ministerial responsibility and cabinet solidarity, the defence minister's accountability to the House of Commons is held collectively with the other members of the governing cabinet. Since a severe defence failure could cost the cabinet the confidence of the House of Commons, all cabinet ministers have a stake in national defence matters. As a result, the defence minister must obtain cabinet's consent for major defence policy decisions, such as significant international military deployments. Defence decisions, moreover, affect the affairs of other departments and agencies. Consequently, the defence minister must consult with fellow ministers when managing the defence portfolio. As noted, for example, the size of the defence budget is an issue of great concern for the Department of Finance. The ministers of national defence and finance must consult and coordinate with each other when defence expenditures are being set. Similarly, the deployment of the Canadian Forces on operations overseas is necessarily linked with the conduct of Canadian foreign policy, a responsibility of the minister of foreign affairs. No international deployment of the military should be advocated or rejected by the defence minister without prior consultation with the foreign affairs minister. The realities of cabinet solidarity and horizontal government demand that the defence minister work closely with cabinet colleagues when managing and directing Canada's defence affairs (DND 1999, 9-10).

The defence minister's second line of accountability is to the prime minister. Appointed by the governor general on the advice of the prime minister, the defence minister is accountable to

the prime minister. This flows from the convention that a relationship of accountability from ministers to the prime minister is established by the prime minister's exercise of the Crown's power of appointment. Simply put, ministers are accountable to the prime minister because the prime minister decides whether they will remain ministers. The line of accountability from the defence minister to the prime minister operates in four ways. First, the defence minister must accept the prime minister's guidelines for the management of the national defence portfolio. These guidelines are expressed in the mandate letter that the defence minister receives upon being appointed. For the most part, the guidelines will tell the defence minister whether the prime minister expects defence policy to change and whether defence expenditures can be expected to increase, decrease or stay level. A defence minister who refuses or is unable to follow the guidelines expressed in this mandate letter risks censure, up to and including expulsion from cabinet. Second, the defence minister is accountable to the prime minister for any mismanagement of the defence portfolio that could erode or has eroded confidence in the ministry. A defence minister who proves incapable of managing DND and the Canadian military will likely be removed from the defence portfolio or cabinet by the prime minister. Third, the prime minister holds the defence minister accountable for an effective and efficient management of DND and the Canadian Forces, which includes ensuring that DND and the military accept and follow government policy and spend funds properly and wisely. Fourth, the prime minister expects that the defence minister will consult and cooperate with fellow cabinet members on national defence matters that affect other departments and agencies (Privy Council Office 1993, 32-4).

*The prime minister*

Custom and the convention of collective ministerial responsibility have made the prime minister, the Crown's first minister, ultimately answerable and accountable to the House of Commons for all the affairs of government. With this ultimate accountability comes an ultimate responsibility for all the affairs of government. Along with the power of appointment, this ultimate responsibility renders all ministers of the government accountable to the prime minister. As well, from this ultimate responsibility there flows a prime minister's authority to be involved with the direction of all government departments. Prime ministers can, when they deem fit, issue directives to all government departments and entities. Typically, the prime minister will issue directives through the minister. In cases of disagreement between the prime minister and a minister, however, this ultimate responsibility allows the prime minister to circumvent the minister and issue directives to or set overarching policy for the department or agency. In national defence, this means that the prime minister has a right to direct DND and the Canadian Forces, that the prime minister's directives and policies take precedence over those of the defence minister and that the prime minister has the ultimate right to set defence policy (Privy Council Office 2008, 5). It further implies that the prime minister can advise cabinet to exercise the Crown's prerogative for national defence.

Tied to the prime minister's ultimate responsibility and authority for all affairs of government is the prime minister's authority to set the strategic policy priorities of the government. Conducted by a consultative process involving the Prime Minister's Office and the Privy Council Office, the setting of priorities allows the prime minister to focus

the government's energies on achieving objectives in a select number of strategic areas. Together with the minister of finance and central agencies, the prime minister will also attempt to set the government's spending priorities. This process decides where additional dollars will be spent, where budgets will be cut and where economies will be sought (Privy Council Office 2008, 25-7). Once the government's policy and spending priorities are chosen, the prime minister communicates them during cabinet meetings and to individual ministers via their mandate letters. As noted above, the mandate letters will indicate if the minister's portfolio is a priority for the government, what the prime minister expects from the minister's department and whether the department can expect a budget increase, a budget decrease or a program review.

The prime minister's authority to set the government's policy and spending priorities necessarily impacts on the management and direction of DND and the Canadian Forces. Once the prime minister has decided that defence is a policy priority, the defence minister will be expected to bring about the policy changes that the prime minister has requested. If the prime minister has decided that DND and the Canadian Forces are not a policy priority for the government, the defence minister will be poorly placed to garner cabinet approval for significant defence policy shifts or innovations. Likewise, the defence minister will be ill positioned to secure a defence spending increase if the prime minister and the minister of finance have determined that defence expenditures will stay level or be cut. And, as mentioned, a defence minister who refuses to accept these realities may be censured by the prime minister. But this does not mean that the defence minister cannot attempt to alter the prime minister's thinking about defence. Indeed, it is expected that ministers will lobby on behalf of their departments. What matters, however, is that the defence minister recognizes that the prime minister retains the final say on the government's priorities.

Other customary responsibilities compel the prime minister to take an active interest in matters of national defence. By tradition, the prime minister is Canada's top diplomat. In that role, a prime minister may ask cabinet to commit the military to various international deployments and operations. If the support of a sufficient number of cabinet ministers is secured, moreover, the prime minister can have an order-in-council drafted to formalize the deployment of the Canadian Forces. Before making such a commitment, the prime minister should ideally consult cabinet and ask the defence minister or the Clerk of the Privy Council to seek the advice of the deputy minister of national defence and the chief of the defence staff regarding the size and scope of a possible deployment. Nonetheless, if the prime minister makes the ill-advised decision to commit forces without proper consultation, DND and the Canadian Forces will be expected to respond as best they can to the decision. Custom further dictates that the prime minister is responsible for managing federal-provincial relations and ensuring that regional interests are balanced at the federal level. These concerns may, in turn, compel the prime minister to bring federal-provincial and regional considerations to bear on defence decisions, such as procurements and military basing. Finally, as the head of the governing party, the prime minister may bring partisan considerations into any discussion of national defence. Departmental and military preferences and recommendations may thus be discarded for partisan reasons.

*The chief of the defence staff*

The chief of the defence staff is the highest-ranking officer in the Canadian Forces. A first duty of the CDS is to provide the defence minister, cabinet and the prime minister with professional military advice. The CDS advises the government on Canada's military requirements, operational options and considerations, and the state of the Canadian Forces as a whole. In addition, the CDS cautions the government about the possible military consequences of its defence policies and decisions. In providing military advice, the CDS is also expected to exercise a challenge function against defence policies or defence policy advice that the military considers unwise or dangerous. With this first duty, the CDS ensures that professional military advice is heard by the government and that the defence minister, cabinet and the prime minister have an understanding of how their defence policy choices will affect the readiness of the armed forces and Canada's military options and capabilities (DND 1999, 4, 7, 13). Cabinet, in turn, is expected to listen and respect the CDS's military advice, whether it chooses to ultimately follow it or not.

Next, section 18(1) of the *National Defence Act* stipulates that, *if* the governor-in-council chooses to name one, the CDS will be charged with the command, control and administration of the Canadian Forces. This involves a number of duties, all of which revolve around the execution of the government's defence policies. The CDS leads the military, heads its management and training, and oversees the military justice system and the development of military strategy, plans and requirements. As well, the CDS is tasked with planning, preparing and conducting Canadian Forces operations. Simply put, the CDS controls and administers all the military activities of the Canadian Forces. Assisting and advising the CDS in the execution of these duties are the vice-chief of the defence staff; the chiefs of the land, maritime and air staffs; and the operational military commanders, each of whom is accountable to the CDS through the military chain of command.

Yet the CDS does not have an entirely free hand when controlling and administering the military. Because nearly all of the CDS's concerns affect defence policy and the defence budget, the CDS must consult and coordinate with the civilian defence department, and the deputy minister in particular, when controlling and administering the Canadian Forces (DND 1999, 4-6). In truth, it would be impossible for the CDS to control and administer the Canadian Forces without the cooperation of DND, since DND administers and is accountable for the military's monies. In fact, as stipulated by the *Financial Administration Act*,[16] the deputy minister is accountable for all departmental and military spending. It thus follows that the deputy minister has the right and the responsibility to oversee all the military's actual and spending. As a result, any spending that does not meet the deputy's approval cannot go forward, regardless of the CDS's preferences. Typically, however, spending levels will be agreed upon between the deputy and the CDS before they go forward.

When assessing the CDS's duties, it must be recalled that, as noted in the first section, section 12(1) of the *National Defence Act* grants the governor-in-council the authority to make "regulations for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces." This means that the CDS must follow the directives of the Crown's

ministers when controlling and administering the Canadian Forces. It further implies that the governor-in-council could control and administer the military in the absence of a CDS. As well, this section of the *National Defence Act* underscores cabinet's ultimate right to decide how the Canadian Forces will be organized and structured. This section of the Act demonstrates that it is within cabinet's power to link the Canadian Forces and DND under a single headquarters, and to demand that the civilian department and military cooperate and coordinate Canada's national defences as a single "defence team" (DND 1999).

To preserve the military's principles of command, orders to the Canadian Forces must be given by the CDS. Directives issued to military personnel by civilians are, implicitly or explicitly, transmitted through the military chain of command that descends from the CDS to the lowest-ranking noncommissioned member. However, the *National Defence Act* stipulates that the governor-in-council may, if it chooses, circumvent the CDS and issue orders directly to the military. Coupled with the governor-in-council's right to control and administer the Canadian Forces without a CDS, this provision further reinforces the statutory reality that cabinet could issue orders to the military if there were no CDS. This guarantees that cabinet is never beholden to the CDS for the management or direction of the Canadian Forces. With this provision, the *National Defence Act* enshrines the norm of civilian authority over the armed forces.

Civilian authority is reinforced by the CDS's lines of accountability to the Crown's ministers. The CDS is directly accountable to the prime minister and the defence minister. The CDS is accountable to the prime minister because it is the prime minister who exercises the Crown's power of appointment when naming a CDS. Hence, the prime minister can appoint, dismiss and replace the CDS at will. There is no statutory constraint on the prime minister's power to choose who will head the Canadian military. The CDS's accountability to the defence minister, on the other hand, is established in the *National Defence Act*. In section 18, the Act specifically states that the CDS follows the defence minister's directives when controlling and administering the military.

These direct lines of accountability from the CDS belie any notion that the CDS has accountabilities to Parliament or that Parliament directly "controls" the military. Both the *National Defence Act* and the power of appointment enforce the norm that the Canadian military serves those who are accountable to Parliament, not Parliament itself. Indeed, from a constitutional perspective, it is vital to recognize that the armed forces serve the Crown rather than Parliament. Supreme authority for the command of the armed forces and the defence of Canada flows from the Crown (D.E. Smith 1995, 71-2). Thus, any and all powers the CDS exercises are powers of the Crown's. In the Canadian system of constitutional monarchy, moreover, convention dictates that the Crown must almost always act on the advice of the ministry holding the confidence of the House of Commons (Privy Council Office 1993, 3-5). Hence, while it is correct to claim that the military serves the Crown and that the CDS is vested with powers from the commander-in-chief, constitutional convention reinforces the norm that, except in the most exceptional of circumstances, the CDS and the Canadian Forces are accountable to the Crown's defence minister and prime minister, and must act upon their guidance and direction.

It is important to recall, however, that the CDS is answerable to Parliament for the activities of the military, and that MPs can call upon the CDS to answer for these activities. Answerability, however, is not equivalent to accountability, which remains squarely with ministers. As defined and specified above, the CDS's answerability to Parliament is limited to informing and explaining, rather than disclosing policy preferences or revealing what military advice was given to the defence minister. Again, the CDS's answerability serves to inform parliamentarians about the technical military and operational issues and to clarify points of fact, not to question the defence minister's national defence decisions. A critical constitutional concept, answerability must not be confused with accountability. As Nicholas d'Ombrain notes, "The terms are not interchangeable: being 'answerable' ensures that Parliament is informed of the way in which power of the state is being used; being 'accountable' ensures that those on whom Parliament confers the powers of the state account for their actions" (2008, 199).

There is one part of the *National Defence Act* that appears to grant the CDS powers that are beyond the defence minister's and cabinet's scrutiny. Part 6 of the Act outlines the CDS's responsibility to respond to a provincial request for military aid of the civil power. This section of the *National Defence Act* allows the CDS to decide which forces are appropriate to meet the province's needs and to deploy those forces accordingly. The section seems to imply that the CDS has duties that are exclusive of the Crown's ministers. Indeed, this was the interpretation presented in the report of the Somalia Commission (CIDCFS 1997, vol. 1, chap. 6). In reality, however, the Act specifies that, when responding to a provincial request, the CDS is still subject to the direction of the defence minister. The Act thus implies that the CDS should secure the defence minister's agreement before responding to a provincial request.

Furthermore, the *National Defence Act* states that it is the provincial attorney general who makes a request of the CDS. The CDS has no authority to deploy the armed forces to assist a province until that request has been made. Hence, the true responsibility in such circumstances belongs with the provincial attorney general. When attorneys general make such a request, they exercise powers of the Crown. In Canada, David E. Smith notes, the Crown is a compound monarchy, meaning that the powers of the Crown are divided between federal and provincial governments (1995, 156-73). When the CDS responds to a provincial attorney general, the CDS is following the directives of another civilian minister exercising the powers of the Crown. Contrary to the assertions of the Somalia Commission report, this does not imply that the CDS has responsibilities that are independent or exclusive of the Crown's ministers. Rather, it merely means that, in certain circumstances, the CDS is required to follow the directives of a civilian authority that exercises the Crown's powers at the provincial level of government.

### *The governor general*

The sovereign's representative in Canada, the governor general, is the commander-in-chief of the Canadian military. As the Queen's representative and commander-in-chief, the governor general performs a number of dignified functions for the military. The governor general signs the commission scrolls of Canadian Forces officers, approves new military badges and insignia, presents new colours to the military and awards military honours, including the Order of Military Merit, the Meritorious Service Decoration, the Military Valour Decorations

and various service medals. As well, the governor general regularly visits military personnel within Canada and on operations abroad. The governor general also takes part in ceremonies honouring fallen soldiers.

Beyond these dignified duties, it is important to note that the CDS and the governor general can have a unique, politically meaningful relationship as well. When necessary, the CDS can ask the governor general to voice the military's concerns to the prime minister (Bland 1995, 130-2). Such a request might be made of the governor general if the CDS feels that the prime minister and cabinet are ignoring professional military advice or neglecting the military. Indeed, as the commander-in-chief of the Canadian Forces, the governor general can legitimately work to promote the welfare of the military during meetings with the prime minister. Though controversial and possibly career-ending for the CDS, asking the governor general to communicate the military's concerns when meeting with the prime minister can help ensure that military advice is given proper consideration.

Although it is rarely discussed, the governor general's role as commander-in-chief also serves as an essential safeguard of Canadian democracy and the Constitution. This effective "safety valve" function is a recognized duty of the sovereign and her representatives (Bogdanor 1997, 65, 74-8). In the highly unlikely but nevertheless possible event that a prime minister or governing cabinet attempted to use the armed forces to subvert Canada's liberal democratic principles, threaten the rule of law or erase the people's fundamental rights and freedoms, the governor general would be expected to command the Canadian Forces to not follow the directives of the prime minister or cabinet (Bland 1997, 8).

Lastly, the governor general's powers as commander-in-chief could serve to avoid military predicaments associated with a national unity crisis. Specifically, were a provincial government to unilaterally declare a province's independence from Canada and attempt to assert control of those armed forces found on its territory, the governor general could, by appealing to their commissioning oaths, request that officers delay any transfer of allegiances until formal negotiations by the civilian governments were underway.

*The deputy minister and assistant deputy ministers of national defence*

Section 7 of the *National Defence Act* states that the Department of National Defence will have a deputy minister. As long as there is a defence department, there must be a deputy minister of national defence. Although the *National Defence Act* says nothing more about the deputy, the *Interpretation Act* further specifies that deputy ministers have the authority to exercise nearly all the responsibilities of their ministers.[17] They are, as a consequence of this statute, the alter egos of their ministers; deputies assist their ministers in the performance of their departmental responsibilities, an essential role given the time constraints imposed on ministers.[18] In a defence context, this means that the deputy minister of national defence assists the defence minister with the "management and direction of the Canadian Forces and all matters relating to national defence." When acting as the minister's alter ego, moreover, the deputy is accountable to the minister for those responsibilities that the deputy exercises in the minister's stead.

The deputy minister advises and reports to the minister on all matters of concern to the minister. This reporting and advising function is particularly important in ensuring that the CDS and the military are kept accountable to the defence minister in those rare instances when the CDS diverges from established policy. The deputy minister does this by helping the defence minister monitor the Canadian Forces. Specifically, the deputy will monitor how well the CDS follows ministerial directives, executes government policy and conducts military operations. If the deputy observes that the CDS is failing to follow ministerial directives, improperly executing government policy or poorly conducting military operations, the deputy may issue a warning to the CDS and/or encourage the CDS to correct the problem. If the CDS ignores the warning or refuses to correct the problem, the deputy minister will inform the defence minister, allowing the minister to personally discuss the issue with the CDS. By monitoring the activities of the CDS and the Canadian Forces in these ways, the deputy minister strengthens the military's accountability to the minister (Feaver 2003, 54-95).

It must be stressed, however, that such a confrontational relationship between the deputy minister and the CDS is rare. For the most part, the deputy and the CDS work in close, cooperative collaboration, ensuring that all components of the "defence team," both civilian and military, are executing their responsibilities in accordance with government policy and ministerial directives.

Beyond acting as the defence minister's alter ego, the deputy minister is delegated responsibilities for the administration of DND, defence policy formulation, the management of defence procurement and the financial administration of the department's and the armed forces' budget. The legal basis for these delegations is found in the *Interpretation Act*, which allows the defence minister's responsibilities for departmental management and administration to be exercised by the deputy minister, and in the *Financial Administration Act*, which makes the deputy accountable for all departmental and military spending.[19] Implicit in this delegation arrangement, and made explicit in statute law and in DND documentation, is that the deputy minister will be accountable to the defence minister and responsive to the minister's directives regarding departmental administration, policy, procurement and monies, including those spent by the military (DND 1999, 4-6, 12-13). The 2006 *Federal Accountability Act* has conferred still more authority on the deputy minister. Specifically, the Act has made all deputies accounting officers, rendering them legally answerable to parliamentary committees for the proper use and allocation of departmental finances. In addition, the Act requires deputy ministers to issue letters to Treasury Board if they do not agree with spending directives issued to them by their ministers. In a defence context, this is an important expansion of the deputy's authority, since it will allow the deputy to challenge a major expense that is supported by the defence minister, or perhaps by the minister and the CDS together.

When executing these responsibilities, the deputy minister consults and cooperates with the CDS, since each of these areas affects the Canadian Forces and military input is required to effectively manage key files, such as policy and procurement. Indeed, the deputy must consult the CDS on all matters affecting the armed forces, and the CDS and the deputy are expected to cooperate with each other (Nixon 1981). Though the deputy minister and the CDS will occasionally disagree on particular files, their relationship is usually harmonious and productive

(DND 1999, 4-6). When conflicts do arise, however, it is the deputy minister's authority that must prevail over matters of policy, procurement or financial administration.

Supporting the deputy minister with these responsibilities are assistant deputy ministers (ADMs) for policy, matériel, human resources, infrastructure and environment, and finance and corporate services (DND 1999, 14). In examining Canadian defence accountability, the roles of the ADMs for policy (Pol) and matériel (Mat) are especially important. The ADM (Pol) is delegated responsibility for formulating defence policy. Giving this responsibility to the ADM (Pol) ensures that there is a source of professional, nonmilitary defence policy expertise available to the defence minister. Given this expertise, the ADM (Pol) is also tasked as the defence policy adviser to the deputy minister and the defence minister. While the ADM (Pol) consults with the military when crafting defence policies, and indeed has military officers working within the policy group, responsibility for defence policy formulation ultimately belongs to the ADM (Pol) (DND 1999, 32). The military's input into defence policy is therefore direct and indirect, but always filtered by the ADM (Pol). In addition, the ADM (Pol) performs an essential challenge function against military advice offered to the defence minister by the CDS and senior Canadian Forces leadership. An experienced ADM (Pol) can question the quality and objectivity of the military advice given to the defence minister, informing the minister when the advice given is designed to serve the military's interests rather than offering the government an impartial assessment of Canada's military prospects.

A similar role is played by the ADM (Mat). The ADM (Mat) is delegated responsibility for the management of defence procurements and for advising the defence minister and the deputy on procurement. Although the ADM (Mat) works closely with the military during the procurement process, it is the ADM (Mat) who decides how procurement competitions will be decided and which procurements are recommended to the defence minister (DND 1999, 33-4). The armed forces are consulted with regard to what types of equipment and services they need. But the ADM (Mat) is authorized to recommend which equipment and services the Canadian Forces should get. Delegating this responsibility to the civilian ADM (Mat) ensures that costs and possible alternatives are duly considered when procurement recommendations are made (Williams 2007, chap. 3).

Helping the defence minister to promote the concerns of DND and the Canadian Forces across government is another of the deputy's roles. Whereas the minister voices the military's and DND's needs to fellow ministers, the deputy communicates DND's and the military's requirements to central agencies and the deputy ministers of other departments. The deputy minister's ability to act as a conduit between the military, central agencies and government departments in fulfilling this function is critical. On the one hand, the deputy is expected to translate the military's highly technical advice and requirements to civil servants unused to interacting with the Canadian Forces on a regular basis. On the other hand, the deputy is called on to explain any departmental or central agency resistance to the Canadian Forces' stated needs to military leaders who do not regularly interact with civilians outside of DND. By serving as an intermediary between the military and non-DND civilian officials, the deputy minister can reduce misunderstandings that occasionally arise between them.

Tied to this intermediary role is the deputy minister's duty to assist the defence minister in coordinating DND's policies with those of other departments. In keeping with the practice of horizontal government, the deputy is expected to consult and work with stakeholders across the government when crafting DND policy (DND 1999, 13). Similarly, when DND has an interest in the policies of other line departments, the deputy will provide the defence department's perspective to the deputy ministers of these departments. Moreover, policy discussions that take place between various deputies may result in a decision to revise certain DND policies. When this occurs, the deputy minister of national defence guarantees that DND policy adjusts accordingly. This obligation highlights that the deputy minister has considerations and duties that extend beyond DND. In addition to heading the defence department, the deputy belongs to an exclusive circle of senior civil servants who strive to harmonize policy across line departments and central agencies. Directed by the prime minister via the Privy Council Office, this circle of senior civil servants thereby fosters a unity of purpose and action across the government. At times, achieving this harmony and unity necessitates that the deputies, including the deputy minister of national defence, impose policy changes that their departments dislike or view as contrary to their particular interests.

The deputy minister's responsibilities as a member of this circle of senior civil servants are delegated by the prime minister, and as a result, the deputy is directly accountable to the prime minister for the exercise of these responsibilities (Privy Council Office 2003, sec. III). Deputies are accountable to the prime minister because it is the prime minister who appoints them. As with ministers, the prime minister's power of appointment implies that deputy ministers must ensure that their departments follow the policy priorities and guidelines set by the prime minister. In addition, the deputies' accountability to the prime minister means that they must assist the prime minister in guaranteeing that their ministers respect the priorities set by the prime minister. Deputy ministers fulfill this obligation in two ways. First, they explain the prime minister's mandate letter to their ministers and warn their ministers if they happen to stray from the provisions of the mandate letter. Second, they warn the Clerk of the Privy Council, the prime minister's deputy, if their ministers are placing their own visions or the particular interests of their departments ahead of the prime minister's priorities, cabinet solidarity or a harmonized approach to government policy-making (Savoie 1999, 253-7).

In a defence context, this means that the deputy minister of national defence explains the prime minister's mandate letter to the defence minister and cautions the Clerk if the minister fails to follow the letter. As well, the deputy cautions the prime minister or the Clerk if the minister pursues defence policies or priorities that differ from those of the prime minister. Equally importantly for defence accountability, the deputy can warn the prime minister or the Clerk if the defence minister is unduly influenced by the military leadership or places the military's particular interests ahead of the prime minister's priorities. Given historical instances when the defence minister sided with the military against the prime minister, asking the deputy minister to monitor the defence minister's affinity with the armed forces is a prudent safeguard. And while this may appear to weaken the deputy's relationship with the defence minister, it remains true that the deputy's accountability to the prime minister must take precedence, given the

power of appointment. Stated differently, since it is the prime minister who appoints the deputy, the deputy's accountability to the prime minister takes precedence over the deputy's accountability or service to the defence minister.

*The Clerk of the Privy Council and Secretary to cabinet*

Canada's Clerk of the Privy Council is head of the Privy Council Office, the prime minister's department. By tradition, the Clerk of the Privy Council also serves as Secretary to cabinet, and the Privy Council Office plays a critical role in coordinating the affairs of cabinet. The full extent of the Clerk's authority and responsibilities, and by extension the Clerk's involvement in defence accountability, can be understood only with reference to each of these roles.

As the head of the prime minister's department, the Clerk of the Privy Council serves as the prime minister's deputy minister and principal policy adviser (Privy Council Office 1999). In accordance with the *Interpretation Act*, this means that the Clerk is concerned with and is delegated responsibility for overseeing all nonpartisan matters of significance to the prime minister. As well, the Clerk manages all Privy Council Office affairs for the prime minister. Under the Clerk's leadership, the office aids the prime minister in setting strategic government policies, determining government priorities, overseeing departmental activities, coordinating horizontal policy-making and achieving interdepartmental synergy. The Privy Council Office and the Clerk also help the prime minister in dealing with government departments, issuing directives to departments and exercising Crown prerogatives, including the power of appointment (Sutherland 2006, 21-41). In addition, the Clerk and the Privy Council Office play a prominent role in crafting overarching policies in areas of special importance to the prime minister, such as federal-provincial relations, national security, and foreign and defence policy.

When an issue is flagged as a priority by the prime minister, moreover, the Clerk and the Privy Council Office are intimately involved in seeing that the matter moves rapidly through the bureaucracy. Indeed, if departments seem unresponsive, resistant or slow in moving ahead on a significant file, the Clerk and the Privy Council Office may take control of the policy-making process. Though rarely exercised, the Clerk's authority to centralize policy-making in the Privy Council Office guarantees that departments cannot block or avoid an initiative that the prime minister has prioritized. On the other hand, if the prime minister has decided that an issue is not a priority, the Clerk and the Privy Council Office ensure there are no notable policy shifts toward the issue and that the prime minister is unburdened by routine concerns surrounding the issue (Savoie 1999, 109-55; Sutherland 2006, 21-41).

From these responsibilities, it follows that the Clerk's concerns with national defence are many. The Clerk, in close consultation with the deputy minister of national defence, advises the prime minister on defence policy, oversees DND and the Canadian Forces for the prime minister, ensures that DND participates in horizontal policy-making procedures and assists the prime minister in issuing directives to DND. Additionally, the Clerk advises the prime minister on the appointment of the CDS and the deputy minister of national defence. Advice provided to the prime minister by the deputy minister, and in rare cases by the CDS, is transmitted through the Clerk, unless the prime minister decides to directly communicate with the deputy or, more

rarely, the CDS. If the prime minister decides that an adjustment of defence policy is a priority or concern for the government, the Clerk works with the deputy minister to guarantee that DND policy changes accordingly. In cases where DND appears unresponsive, resistant or slow in implementing the prime minister's directives, the Clerk pressures it to improve its performance or, failing that, brings defence policy-making into the Privy Council Office. With all these efforts, the Clerk plays a vital role in keeping DND, the Canadian Forces, the deputy minister and, on occasion, the CDS accountable and responsive to the prime minister.

As the secretary to cabinet, the Clerk is also charged with the management of cabinet affairs. The secretary and the Privy Council Office help the prime minister and ministers set cabinet agendas, coordinate cabinet committees, draft orders-in-council and legislation, and present and defend the government's program in the Senate and the House of Commons. For the secretary, a primary concern is ensuring that ministers have consulted one another and secured one another's approval before putting forth new policies or proposals in cabinet committees (Sutherland 2006, 25-9). Furthermore, on the authority of the prime minister, the secretary monitors whether ministers are putting forth proposals that contradict or fall outside the bounds of their mandate letters or the prime minister's priorities. In matters of national defence, this means that the secretary guarantees that the defence minister has consulted other ministers before putting forth a new defence policy, program or proposal in a cabinet committee. As well, the secretary warns the prime minister if the defence minister is intent on putting forth a defence policy, program or proposal that is at variance with the prime minister's priorities or the minister's mandate letter. In so doing, the secretary helps keep the defence minister accountable to the prime minister.

Arbitrating disputes is another of the Clerk's roles. The Clerk tends to intervene when there is discord between departments or between deputies and ministers. Were there a significant dispute or conflict between the CDS and the deputy minister of national defence that the defence minister could not bridge, the Clerk would likely intervene, too. When the Clerk arbitrates such disputes, the goal is to reduce tensions, clarify respective responsibilities and accountabilities, and encourage an atmosphere of collegiality and cooperation within the government (Sutherland 2006, 39-40).

*Other central agency actors*

Three other central agency actors play important roles in Canadian defence accountability. First among these is the Foreign and Defence Policy Secretariat of the Privy Council Office. Principally charged with managing the prime minister's international travels and relationships with foreign heads of government or state, the secretariat also keeps the Clerk informed about policy proposals and major programs that are emerging within DND. Together with the information provided by the DM, this provides the Clerk with a means of monitoring happenings within DND. Furthermore, the secretariat provides the prime minister and the Clerk with non-departmental foreign and defence policy advice. Through this advisory role, the secretariat can help the prime minister and the Clerk develop defence policy initiatives and set overarching policy guidelines for the defence minister and DND. When asked by the prime minister and the Clerk, moreover, the secretariat can challenge defence policy advice emanating from the

defence department. Indeed, having the secretariat exercise a challenge function against the advice of DND ensures that the prime minister and the Clerk have access to an alternative source of defence policy expertise. What is more, in the event that the prime minister and the Clerk decide to bring defence policy-making into the Privy Council Office, the Foreign and Defence Policy Secretariat can be asked to manage the defence policy review. While it is unclear if this has ever occurred, the secretariat's defence policy expertise leaves this option open to the Clerk and the prime minister.

Another key central agency player in Canada's defence accountability framework is the Department of Finance. Among its many responsibilities and tasks, the finance department is responsible for the federal budget and the allocation of funds across the government. As part of this responsibility, the department works closely with line departments and the Privy Council Office to determine how federal funds are distributed. In addition, the finance department assists line departments with their budget and expenditure planning, particularly when major capital expenditures are envisaged. When evaluating departmental budgets and plans, however, the department typically adopts a fiscally conservative perspective. Wary of budget deficits, mindful of the financial challenges posed by large-scale debt and constantly aware of the opportunity-cost dilemmas the government encounters when distributing funds, the finance department is determined to avoid ineffective, inefficient or unnecessary spending (Good 2008, 23). Before accepting that a departmental budget should increase or that a major project should be funded, therefore, the finance department seeks proof that such outlays are necessary and a wise use of scarce financial resources. In fact, the department scrutinizes all large-scale funding requests and spending plans, even those made by the prime minister. As the customary "guardian" of the federal budget, a role that can be traced back to the earliest days of the Crown's treasury, the finance department must be convinced of the worthiness of an expenditure and is prepared to challenge funding of those that appear to fall short of expectations.

Given the relatively large size of the defence budget and the significant number of major investments that the defence department makes, the finance department takes a particular interest in its budgets and spending. Proposals to increase the overall defence budget are rigorously scrutinized. If the proposed budget increase is deemed questionable or unwise by the finance department, the minister of finance will lobby against it in cabinet and the deputy minister of finance will attempt to convince the Clerk to oppose it as well. The finance department will also vigorously examine DND's investment and spending plans. Investment plans that seem to unnecessarily expand DND's budgetary requirements may be questioned by finance officials. Similarly, finance officials will assess whether the allocation of the defence budget is realistic and in keeping with DND's stated objectives.

Relations between the defence department and the finance department can be tense when finance officials question defence expenditures. Both civilian defence bureaucrats and military officers may resent the idea that their spending plans or requests for additional funds are scrutinized by officials who lack expertise in matters of national defence. However, having the finance department challenge DND's financial ambitions and planning helps reassure the government that defence expenditures are being kept under control and that DND is adhering to

prudent budgeting practices. Such reassurances are particularly important to the minister of finance and the prime minister, who are ultimately responsible for the government's finances, its fiscal policy and Canada's economic well-being. By overseeing DND's budgets and examining the overarching costs associated with defence expenditure increases, then, the finance department plays an important role in bolstering defence accountability.

The Treasury Board Secretariat is another central agency that strengthens defence accountability. Treasury Board is responsible for ensuring that departments spend money efficiently, effectively, ethically and soundly (Good 2008, 43-9). In light of the large sums that DND spends, Treasury Board naturally takes a great deal of interest in how the defence department uses its funds. Accordingly, Treasury Board will evaluate whether defence dollars are being spent efficiently and effectively, whether there is any impropriety in how defence funds are used and whether DND properly manages its operational budgets. When evaluating the expenses of DND, Treasury Board has been known to be especially meticulous in assessing procurement proposals. Often costing many billions of dollars, defence procurements count among the largest acquisitions made by the federal government. Treasury Board thus seeks to ensure that DND is getting the most value for its money when making procurements, that the various Canadian regions and sectors benefit from procurements and that the interests of the government are protected in procurement contracts.

In performing these functions, Treasury Board bolsters defence accountability by helping to ensure that defence dollars are well spent. Such an assurance is valued by the defence minister, who is accountable to the House of Commons for defence expenditures, and by the prime minister, who is ultimately accountable to the House for the government's use of public money. The oversight provided by Treasury Board, furthermore, reassures the prime minister, the defence minister and the rest of cabinet that the government is getting a good return on the dollars it allocates to defence. This is not a trivial concern given the opportunity costs that the prime minister and cabinet must constantly accept when allocating money to one department or initiative over others. Treasury Board's legal right and responsibility to perform this oversight is established by the *Financial Administration Act*.

As with the scrutiny applied by the finance department, Treasury Board's questioning of defence expenditures and procurements can be a source of discontent within DND. Beyond the time spent reporting back to Treasury Board on efficiency and management practices, defence officials and military officers may feel particularly slighted when procurement plans are delayed or derailed because of contracting issues or industrial and regional benefits. Yet it should be recognized that the oversight provided by Treasury Board compels DND and the Canadian Forces to be more efficient and effective in their spending and more mindful of political and economic considerations that elected leaders attach to costly procurements. Seen from this vantage point, Treasury Board reduces potentially greater tensions that could arise between elected leaders and DND if inefficient spending and questionable procurements are thought to be persistent problems. Equally if not more importantly, Treasury Board's oversight likely identifies spending and procurement problems that could embarrass DND and damage the department's integrity if left unaddressed and exposed publicly.

*Other line departments*

Finally, several line departments have a stake in the affairs of DND and the Canadian Forces. For instance, the Department of Foreign Affairs and International Trade has an interest in DND's international security policies and in the nature and scope of the military's international deployments; Public Safety Canada works closely with DND and the military when the armed forces are called on to assist with domestic security operations, and the two departments consult each other on consequence management planning; Industry Canada guarantees that DND's procurements provide proper industrial and regional benefits; Public Works and Government Services guarantees that procurement contracts are properly structured; and Environment Canada is concerned with the manner in which DND disposes of hazardous materials.

In each of these cases, and in several more that have not been mentioned, other line departments seek to have a say over DND policies and Canadian Forces practices because these policies and practices affect or touch upon areas that fall under their ministers' responsibilities. At times, their relations with DND and the military will be harmonious and cooperative. At other times, their encounters with the defence department and the armed forces will be discordant and prone to conflict. Either way, it remains that these departments and their officials have a right and are indeed expected to voice their concerns with any matters of national defence that affect their mandates or intersect with their jurisdictions. Given their individual ministers' accountabilities to the House of Commons and the conventions of cabinet solidarity and collective responsibility, this is entirely appropriate. Hence, although DND and the Canadian Forces may occasionally feel that the intrusion of other line departments into their portfolio is unwarranted, burdensome or an example of the bureaucracy's preoccupation with process and procedure, as General Hillier lamented, it remains true that this is a legitimate and necessary part of contemporary government.

### Summary: Defence accountability within government

Having reviewed the roles and responsibilities of Canada's principal defence actors, it is worthwhile to conclude by reviewing how their functions and relationships of checks and balances address Canadian defence accountability challenges. In light of the criticism levelled at the role played by senior bureaucrats in maintaining defence accountability, special attention must be paid to their contributions to this structure. Additionally, the unique role of the CDS in this structure must be analyzed.

*The deputy minister, the assistant deputy ministers and defence accountability*

The deputy minister of national defence plays a pivotal role in defence accountability. As the defence minister's alter ego, the deputy monitors and reports on the Canadian Forces and all matters of national defence to the minister. As part of these responsibilities, the deputy minister ensures that the Canadian Forces are following the spirit and the letter of directives issued by the civilian authority, that they accept the defence policies established by the civilian authority and that they are putting the interests of the government above their own. In so doing, the deputy minister addresses execution and interest problems associated with the civilian control of armed forces.

Next, delegation of the responsibility for defence policy formulation and advice to the deputy and the assistant deputy minister for policy and of the responsibility for defence procurement management and advice to the deputy and the assistant deputy minister for matériel addresses the expert problem inherent in defence accountability by ensuring that the defence minister is not wholly dependent on the military for defence policy and procurement advice. While the civilian authority is free to ask the military for such advice, tasking civilian defence bureaucrats with these responsibilities guarantees that there is an alternative source of advice available. Allowing these civilian defence officials to offer their advice to the defence minister, moreover, addresses part of the professionalism problem; while their advice may not be followed, it is available to the civilian authority. When requested by the defence minister, the deputy minister and the ADM (Pol) can also exercise a challenge function regarding the military advice of the CDS. While the CDS is the recognized source of military advice, asking the deputy and the ADM (Pol) to perform this challenge function ensures that the defence minister has alternative sources of advice to consider when difficult or controversial circumstances exist.

Duties assigned to the deputy minister by the prime minister and the Clerk address further defence accountability problems. The deputy warns the prime minister and the Clerk if the defence minister strays from the prime minister's priorities and mandate letter. As well, the deputy can warn the prime minister and the Clerk if the defence minister is putting the military's interests above those of the government, as defined by the prime minister. In performing these duties, the deputy minister addresses execution and interest problems that may arise between the defence minister and the prime minister. Furthermore, the deputy ensures that DND accepts the prime minister's priorities and that it actively participates in horizontal government and cross-departmental policy-making. Through these responsibilities, the deputy minister addresses the policy execution problem that is of paramount concern to the prime minister.

Finally, because they are accountable for the financial administration of DND and the Canadian Forces, deputy ministers must ensure that both the department and the military spend money effectively and efficiently. The DM is therefore expected to prevent spending problems from plaguing DND and the Canadian Forces.

*The Clerk, central agencies, line departments and defence accountability*

The Clerk of the Privy Council plays an indirect, but nonetheless important, role in maintaining defence accountability. As the prime minister's deputy minister, the Clerk ensures that the prime minister's priorities are followed across the government, including within the defence department. In so doing, the Clerk addresses execution problems that may arise if the defence minister, DND or the military ignore or evade the prime minister's priorities. Furthermore, the Clerk reports to the prime minister about the activities and plans of DND and the Canadian Forces. When performing this task, the Clerk can warn the prime minister of any looming spending or policy execution problems associated with DND or the military. Should DND appear unresponsive to the prime minister's policy priorities, moreover, the Clerk can temporarily bring defence policy-making into the Privy Council Office. Lastly, the Clerk can adjudicate disputes between central defence actors, such as the deputy minister and the CDS. The

Clerk can settle arguments, decide where authorities lie and reduce tensions that can arise between senior officials. By resolving these disagreements, the Clerk allows Canada's structure of defence accountability to function more smoothly.

The Foreign and Defence Policy Secretariat of the Privy Council Office can challenge defence policy advice given by DND. When it does so, the secretariat further diminishes the defence expertise problem faced by the prime minister and cabinet. Were the Clerk or the prime minister to bring defence policy-making into the Privy Council Office, furthermore, the secretariat could assist with the drafting of a new defence policy statement.

Inefficient or ineffective spending that goes unnoticed or is accepted by the senior officials and officers at DND is dealt with by the Treasury Board Secretariat. Treasury Board will flag questionable spending programs and block procurements that do not meet certain economic and political criteria. Though the standards by which Treasury Board judges defence programs and procurement may at times appear contrary to the best interests of the armed forces, they are believed to serve the larger financial interests of Canada and Canadians. Insofar as cabinet is accountable to the House of Commons for those larger financial interests, having Treasury Board scrutinize DND's spending is both legitimate and an important means of avoiding spending problems within the department and the military.

For its part, the finance department critically assesses the defence department's spending plans and budget increase requests. It examines whether DND's planned spending is feasible or likely to result in budgetary shortfalls. If the finance department believes that DND is being unrealistic in costing its programs or deliberately permitting budgetary shortfalls in an effort to lobby for higher defence expenditures, it can raise the issue with the deputy minister of national defence, the defence minister, the Clerk or the prime minister. When the defence department petitions for a budget increase, furthermore, the finance department will inform the prime minister and the Clerk of the opportunity costs and potential economic consequences that an increase in the defence budget would entail. With this information in hand, the prime minister and the Clerk can better weigh DND's funding request against other competing considerations. In performing these various oversight functions, the finance department helps guard against spending problems and improves the prime minister's and cabinet's ability to judge the necessity of higher defence expenditures.

Other line departments, meanwhile, seek to influence DND policy and Canadian Forces activities that affect their jurisdictions and mandates. When they do so, officials in these departments are exerting their right to have a say over matters that intersect with the responsibilities of their ministers. Although they are occasionally a source of tension between the defence establishment and other departments, these efforts are an important and legitimate outgrowth of horizontal government and the convention of ministerial responsibility.

*The chief of the defence staff and defence accountability*

As the highest-ranking officer in the Canadian Forces, the chief of the defence staff is the linchpin of Canada's military accountability structure. Authorized to command, control and administer the armed forces, the CDS must guarantee that the military follows the directives of the

civilian authority and performs assigned tasks to the best of its ability. The CDS must also maintain military professionalism and competence, assuring the integrity of the chain of command, upholding the highest standards of training and providing management effectiveness at the highest levels of operational efficiency. As importantly, the CDS is expected to tell the defence minister what the military requires to fulfill the defence policies of the government, to warn the defence minister of any capability or funding shortfalls that the Canadian Forces face and to provide the minister with honest and direct military advice. Given the civilian authority's "right to be wrong," the defence minister is free to ignore the CDS's advice and warnings. But to address the professionalism problem, to ensure that the expertise of the military with respect to the application of armed force is respected, the CDS must be permitted to express the Canadian Forces' concerns, views and requests to the defence minister. Granting the CDS unfettered access to the defence minister and the prime minister is essential in order for the civilian authority to be aware of the military consequences of its defence decisions.

Finally, the CDS can also challenge the defence policy advice of the deputy minister and the ADM (Pol) of national defence. Permitting the CDS to occasionally challenge these officials guarantees that the defence minister, the prime minister and cabinet are not wholly dependent on the deputy minister or the ADM (Pol) for defence policy advice. Having the CDS perform this challenge function helps keep the senior bureaucracy accountable to the defence minister and the prime minister, belying the notion that the oversight of the civilian department is lax.

All told, defence accountability within the Canadian government is assured by a series of checks and balances among Canada's primary defence policy actors. These checks and balances evolved to meet the principal-agent dilemmas and governing challenges that successive Canadian governments encountered in the decades that followed the Second World War. The defence accountability structure provided by these checks and balances accomplishes several ends. It guarantees that Canada's defence policies and budgets reflect the prime minister's priorities. It provides the prime minister and the defence minister with multiple sources of defence and military advice, while preserving cabinet's authority to decide on major matters of national defence. It protects the CDS's duty to offer military advice to the civilian authority, and it safeguards the Canadian Forces' chain of command. Lastly, Canada's defence accountability structure allows defence policy-making and budgeting to fit within a framework of horizontal government.

Senior bureaucrats are an essential component of Canada's defence accountability structure. They assist the defence minister, the prime minister and cabinet with the management of the national defence portfolio. They also allow a horizontal government to function smoothly and efficaciously. Most importantly, they form an important part of the "defence team" by complementing the skills of senior military leaders; and, when necessary, they can oversee and challenge the Canadian Forces, which reinforces the right of elected leaders to make defence decisions based on the best possible information and advice. Hence, while it may be true that "civilian control of the armed forces is not civil service control of the armed forces," it is equally the case that senior bureaucrats play a legitimate and necessary role in helping to keep the military accountable to cabinet, and vice versa.

## Notes

1 For a broader discussion of parliamentary reform, see D.E. Smith (2007), Sutherland (1991) and J. Smith (1999).

2 For an overview of the distinction between constitutional, legal and executive prerogatives, see Brazier (1999).

3 Certain powers of the Crown, notably the reserve powers that the governor general exercises, may be used against the advice of cabinet or the prime minister. See D.E. Smith (1995) for an analysis of the continuing relevance of these reserve powers. In addition, as will be noted below, the Crown's prerogatives could be independently exercised by the governor general to safeguard the Canadian constitution and Canadian liberal democracy. See Bogdanor (1997, 65, 74-8) for an examination of this issue.

4 For detailed discussions of the nature of Crown prerogatives, their foundations and their relationships with statute law, see Payne (1999) and Hadfield (1999).

5 *National Defence Act*, R.S.C. 1985, c. N-5.

6 *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.).

7 On average, Canadian MPs serve in the House of Commons for a shorter period of time than their British counterparts. Indeed, whereas many British MPs make a career of being backbench parliamentarians, Canadian MPs tend to leave politics if they do not obtain a cabinet position within a certain period of time. Moreover, there are fewer "safe seats" in Canadian federal elections, meaning that Canadian MPs are at a higher risk of seeing their political careers end during an election. Each of these realities limits the ability of Canadian MPs to develop an expertise in a particular portfolio, including national defence. They are simply not in Parliament for a sufficient amount of time. Unfortunately, this is a problem of Canadian political culture. To overcome this obstacle, either MPs must be convinced to stay in politics for longer periods of time or the number of MPs sitting in the House must be greatly increased to allow for the creation of more "safe seats." For a discussion of these challenges, see Franks (1987, 72-9).

8 Of course, for this reform to be realistic, the perspective of political parties would need to change. Parties would need to believe that building internal policy expertise is a worthwhile endeavour. The benefits of such a change of perspective, however, would be substantial, whether in the area of national defence or in any other portfolio.

9 It should be noted, furthermore, that this holds for all parliamentary committees and that there is no reason why defence committees should operate in a different fashion. Indeed, the Canadian system of government would be a disjointed entity if one committee were allowed to stretch principles of responsible government while other committees could not.

10 Confidential interviews conducted for this study indicate that this problem recently arose when Lieutenant General Andrew Leslie, the Chief of the Land Staff, chose to express his personal concerns about the state of Canada's land forces before a parliamentary committee. Leslie's blunt description of the army's personnel and equipment difficulties appeared to call into question the Harper government's procurement priorities and declarations regarding the Canadian Forces mission in Afghanistan. It is rumoured that Leslie's actions undermined his relationship with the Harper government and that he was later ordered to change his tone when answering future questions about the state of the land forces.

11 It should be noted, however, that foreign commanders could be given operational control of the Canadian Forces. The commander of NORAD, for instance, while an American, can exercise operational control of Canadian units.

12 It must be noted that a strong system of accountability does not necessarily lead to good defence policy. Likewise, a poor system of accountability does not necessarily lead to bad defence policy. One can have a strong system of defence accountability while having poor defence policies, and vice versa.

13 Canadian practice and law has increasingly employed the term "public service" instead of "civil service." In this study, the term "civil service" is used to stress the role of officials in a constitutional monarchy. The term highlights the important distinction between the civilian and military servants of the Crown, the difference between the two types of Crown servants, and it indicates that officials assist ministers in their executive functions and are accountable to Parliament through a minister.

14 A negative consequence of this isolation of the CDS was a hampering of the military's ability to build relationships with other line departments with which it was expected to cooperate during emergencies. A case in point is the 1998 ice storm, when the military needed to cooperate with agencies and departments with which it had not built close ties.

15 It should be noted, however, that responsibility for different aspects of defence procurements are divided between the minister of national defence and the minister of public works, a situation that should be rectified. See Williams (2007).

16 *Financial Administration Act*, R.S.C. 1985, c. F-11, pt. I.

17 *Interpretation Act*, R.S.C. 1985, c. I-21, s. 24 (2). The limits of the deputy minister's authority to act in a minister's stead are outlined in Hurley (2006, 132-3).

18 For a fuller discussion of deputy ministers and their roles, see Bourgault (2006).

19 *Financial Administration Act*, R.S.C. 1985, c. F-11, s. 31(1), 31(3), 32(2), 34 and 62.

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